

October 2, 2006

The Union County Board of Commissioners met in a regular meeting on Monday, October 2, 2006, at 7:00 p.m. in the Commissioners' Formal Board Room, ninth floor, Union County Government Center, 500 North Main Street, Monroe, North Carolina. The following were

PRESENT: Chairman Roger Lane, Vice Chairman Hughie Sexton, Commissioner Kevin Pressley, Commissioner Stony Rushing, and Commissioner Richard Stone

ABSENT: None

ALSO PRESENT: Mike Shalati, County Manager, Lynn G. West, Clerk to the Board of Commissioners, Jeff Crook, Senior Staff Attorney, Kai Nelson, Finance Director, Brett Vines, Public Information Officer, Don Perry, County Attorney, members of the press, and other interested citizens

OPENING OF MEETING:

Chairman Lane opened the meeting, welcomed everyone present, and asked that all cellular telephones be silenced during the meeting.

a. Invocation

Commissioner Pressley offered the invocation.

b. Pledge of Allegiance

Chairman Lane led the body in reciting the Pledge of Allegiance to the American flag.

b. Informal Comments

Dr. Ed Davis, Superintendent, Union County Public Schools, addressed the Board regarding Extraterritorial Jurisdiction (ETJ).

Dr. Davis, speaking on behalf of the Board of Education, said that the Board of Education has no position on ETJ in and of itself. However, he stated that the Board of Education is concerned about the potential impact of ETJ on the Union County Public Schools' Building Program. He further stated that the schools try to construct schools in unincorporated areas when possible, because they can follow the County's zoning ordinances. Dr. Davis said that the schools prefer to follow the County's zoning

ordinances because they have dealt with these ordinances for years, and they are very familiar with those rules.

He commented that having to following zoning and conditional use permit requirements in various municipalities has cost the taxpayers money. He said that in the last year having to follow the various zoning ordinances and conditional use permit requirements in various municipalities has cost the taxpayers \$419,000 and has also cost the school construction program 90 working days.

Dr. Davis stated that the short-term issue that would be before the Board in the future is the situation at Wesley Chapel. He explained that it is not just a Wesley Chapel issue, but it is a countywide issue. He referred to the Cuthbertson Property and said that he really does not have an issue on whether or not the Board grants Wesley Chapel its ETJ request, but he was asking that the Board place a condition upon granting the request that the Union County Public Schools would be subject only to County zoning ordinances in the construction of those schools. Dr. Davis said that did not mean that the schools' staff would not sit down and have dialogue with the people who reside in the area. He assured that they would communicate with those residents once the schools become owners of the property. He stated that the schools would do everything possible to be good neighbors.

Dr. Davis suggested that a long-term solution needs to be found in this regard. He said that he is hopeful that in the future the schools' representatives and representatives from all of the municipalities could develop a Memorandum of Understanding whereby the municipalities agree to allow the schools to follow County zoning ordinances or they can develop one set of rules on which all the municipalities can agree. He said that he thought this solution would serve the interest of the taxpayers and all of the citizens of Union County as schools continue to be built at a rapid rate.

Dr. Davis stated that once the Board of Commissioners sets a date for a public hearing on the request by Wesley Chapel for ETJ, if he is unable to be present for the public hearing, he would make sure a representative from the schools was present for that public hearing.

PUBLIC HEARING - TEXT AMENDMENT TO ARTICLE X, SECTION 146 TABLE OF USES AMPHITHEATER AND UTILITY FACILITIES, ELECTRIC SUBSTATIONS:

At approximately 7:15 p.m., the Chairman opened the public hearing regarding the proposed text amendment under Article X, Section 146 Table of Uses, as follows:

Amphitheater: in zoning districts RC-80, RA-40, R-40, R-20, RA-20, R-15, R-10, R-8 and R-6 change to S (special use), the remaining districts shall stay as listed.

Utility Facilities, Electric Substations: in zoning districts RC-80, RA-40, R-40, R-20, RA-20, R-15, R-10, R-8, and R-6 change to S (special use), the

remaining districts stay as listed. Supplemental regulations apply in all zoning districts.

UNION COUNTY TABLE OF USES

USE	SUPPLEMENTAL REGULATION SECTION NUMBER ON ARTICLE	PARKING REQUIREMENT FOUND IN SECTION 291(e)	RC80	RA40	RA20	R40	R20	R15	R10	R8	R6	O	B-1	B-2	B-3	B-4	HC	B-6	LI	HI
OLD																				
Amphitheater	179	6.22	Z	Z	Z	Z	Z	Z	Z	Z	Z		Z	Z	Z	Z	Z	Zs		
NEW																				
Amphitheater	179	6.22	S	S	S	S	S	S	S	S	S		Z	Z	Z	Z	Z	Zs		

USE	SUPPLEMENTAL REGULATION SECTION NUMBER ON ARTICLE	PARKING REQUIREMENT FOUND IN SECTION 291(e)	RC80	RA40	RA20	R40	R20	R15	R10	R8	R6	O	B-1	B-2	B-3	B-4	HC	B-6	LI	HI
OLD																				
Utility Facilities, Electric Substations	177	1.000	Zs	Zs	Zs	Zs	Zs	Zs	Zs	Zs	Zs	Zs	Zs	Zs	Zs	Zs	Zs	Zs	Zs	Zs
NEW																				
Utility Facilities, Electric Substations	177	1.000	Ss	Ss	Ss	Ss	Ss	Ss	Ss	Ss	Ss	Zs	Zs	Zs	Zs	Zs	Zs	Zs	Zs	Zs

The County Manager announced that a total of four speakers had registered to address the Board during the public hearing: two in favor of the proposed text amendments and two in opposition to the proposed text amendments.

Tim Gause, Customer Relations Manager for Duke Energy, spoke in opposition to the proposed text amendments. He stated that Duke Energy is franchised by the North Carolina Utilities Commission to provide safe, reliable energy to this region. Mr. Gause said that Duke Energy attempts to provide energy to the region at a reasonable cost and in a responsible manner.

Mr. Gause stated that the proposed text amendment would make it difficult for electric utilities to provide the infrastructure that Union County needs and that the North Carolina Utilities Commission requires it to provide. He said that the electric utilities companies need to be able to move quickly to provide energy sources. He further said that the irony of placing more restrictions on the locations of substations is that the substations need to be built where the growth is occurring. He noted that electric substations do not need to be built in remote areas where there is no growth taking place.

Mr. Gause said that the substations provide energy to not only the residential but the commercial, industrial, and manufacturing segments of the economy and are part of the economic development formula that creates and sustains employment in the area. Therefore, he said making it more restrictive on the utilities companies as they attempt to site substations and provide energy inhibits growth in Union County.

In closing, Mr. Gause urged the Board to leave the text as it is currently defined in the County's Land Use Ordinance. He said that the conditions that the electric utilities companies face today in siting utilities are stringent enough. He said that Duke Energy wants to go on record in opposition to any changes to the Land Use Ordinance that would make it more difficult for it to operate and to conduct business on behalf of its customers in Union County.

Bobby Sullivan, Attorney at Law, representing Union Power, also spoke in opposition to the proposed text amendments. He said that he had mentioned during the Board's meeting of September 18, 2006, that Union Power might try and put together an alternative to the proposed text amendment. Mr. Sullivan explained that when Union Power starting looking into that issue, it was realized that it did not need to offer an alternative to the proposal, because the current language in the County's Land Use Ordinance is already well suited to substations. He stated that Union Power would urge the Board to keep the current language in the Land Use Ordinance and not adopt the proposed text amendment to make substations a special use process.

Mr. Sullivan said that because substations are part of the infrastructure of the County, their locations should be driven by where they are needed to meet the demand for electricity. He stated that the Ordinance already contains in Section 177 well suited language, because it does not interfere with where substations are located and allows

need to determine the location of substations while still making sure that when substations are built, they are safe, well-screened and are as unobtrusive as possible.

He stated that his client's concern is if electric substations are made a special use process, it will bring in additional standards that are generic and are not specifically written with substations in mind, and, therefore, have the potential to create some ambiguity or misunderstanding that could keep substations from being constructed in areas where they are needed. Mr. Sullivan said that if substations are made a special use process, one of the criteria that the Board of Adjustment considers is if the development in this location will be in conformity with the County's Land Use Plan. He stated that he has reviewed the County's Land Use Plan and does not see any language that seems to have been written with substations in mind or that clearly addresses substations.

Mr. Sullivan said that the Land Use Ordinance contains standards written with substations in mind, and he urged the Board to keep those standards in place.

Sondra Bradford spoke in favor of the proposed text amendments. She stated that her main reason for believing that the text amendments are needed is that government is far stronger when it involves all of the people who are impacted by government decisions. She said that the current table of uses permits substations by right, and, therefore, can be located on any piece of County land without any consideration to the impact of nearby residents. Ms. Bradford says that she believes what is lacking is the opportunity for the residents to provide input in the process. She said that with the special use permit, everyone's concerns could be heard fairly as well as those of the electric utilities companies, there can be dialogue about the matter, and then the appropriate decision can be made by the government.

Ms. Bradford said that there had been several good points brought out about the proposed text amendments. She stated that while it is important to have substations, even within the municipality of Wesley Chapel itself, there is plenty of vacant land available that is nowhere near residences or subdivisions. She said that because of the vacant land that is available at intersections of transmission and distribution lines, she believes especially in the County areas where there is less development, it would not be that difficult to place a substation.

In addition, she stated that it is so important with the high rate of growth being experienced in the County and the fact that the County ordinances are currently designed not for a high growth suburban area, but for a rural environment, to take into consideration those impacted. She said that the current screening requirements, while better than some, are not adequate to screen substations from major subdivisions. Ms. Bradford mentioned that of the seven counties in the surrounding area, two of those counties do not allow substations in residential areas at all; two of the counties require conditional use permits that are even more stringent; and one of the counties requires a special use permit. She stated that it was not unusual to require citizens' input into the process. She asked that the Board consider adopting the text amendment, which would allow the citizens to be heard.

The last speaker was Ms. Yaffa Dratman who also spoke in favor of the proposed text amendment. She stated that she lives in Champion Forest Subdivision.

Ms. Dratman cited an example of a story with a moral that some things in life are fixed and unchanging and others are not. She stated that Union County is one of those things in life that is changing. Ms. Dratman said that the government officials of the County must lead the County in a dynamic rather than static fashion and adjust the course for the changing County. In conclusion, she urged the Board to adopt the proposed text amendments to the Table of Uses.

With there being no one else wishing to address the Board during the public hearing, at approximately 7:27 p.m., the Chairman closed the public hearing.

PUBLIC HEARING - PROPOSED INCENTIVE GRANT TO PROJECT WALT:

At approximately 7:28 p.m., the Chairman opened the public hearing regarding a proposed incentive grant for Project Walt and recognized Maurice Ewing, President of the Union County Partnership for Progress to explain the project.

Mr. Ewing briefed the Board and the audience regarding the project. He introduced Walt Harfmann, General Manager of the Darnell Company, Charlie Odle, Director of Operations for the Darnell Company, and Chris Plate', Economic Development Director for the City of Monroe, who has also been working with this project.

Mr. Ewing said that the Darnell Company is a subsidiary of Ajoever, which is a plastic extrusion and thermoforming company. He shared that the company is considering Union County for a North American headquarters. He stated that Darnell has petitioned the State of North Carolina and the City of Monroe as well as Union County for approval of incentives for this project. Mr. Ewing said that while the company has expressed a firm and sincere interest in Union County, it has stated that continuing discussions on the North Carolina location are contingent upon support for the incentive packages currently being requested.

He noted that the company is also considering two communities in South Carolina that have potential useable buildings available. Mr. Ewing stated that the Darnell Company is considering the Square D facility consisting of 249,000 square feet located on Airport Road. He said that should Union County be fortunate enough that the company selects that building, the purchase price of the building and land is anticipated to be approximately six million dollars. He noted that it is expected that the improvements to the building will cost approximately one million dollars with the addition of machinery and equipment of approximately \$14,800,000 bringing the total new investment to Union County of \$15,800,000. Mr. Ewing stated that Darnell expects to employ initially 39 employees at an average hourly wage rate of \$16.67, and it is

expected to add 46 employees in the second year, and in the third year, it is expected to add 39 employees for a total of 124 new jobs.

He said that industrial revenue bonds would also be considered for this project at a later time. Mr. Ewing stated that should the incentives be approved in Union County, it is anticipated that the company will take possession of the building before the end of October. He said that the Board's action is quite critical to the company's decision making process. He reported that the Board of Directors of the Union County Partnership for Progress reviewed the project on September 28th and authorized him to extend its recommendation for approval of the proposed incentive. He said that the total incentive package requested of Union County is \$164,441 to be paid over five years, and should the City of Monroe's incentive package be approved, it will be in the range of \$360,000 paid over a five-year period.

With there being no one else wishing to speak in favor of or in opposition to the proposed incentive grant, at approximately 7:31 p.m., the Chairman closed the public hearing.

ADDITIONS, DELETIONS AND/OR ADOPTION OF AGENDA:

Commissioner Pressley stated that there had been some discussion about removing Item 10-Jail Architect Agreement from the agenda.

Mr. Shalati stated that the jail architect was unable to attend tonight's meeting, and the Manager said that if the Board would like to receive a briefing on the project, his recommendation would be to delete this item from tonight's agenda and defer it to the next meeting when the architect could be present to brief the Board.

Upon the Manager's recommendation, Chairman Lane moved to delete Item 10 - Jail Architect Agreement from tonight's agenda.

Vice Chairman Sexton asked if there was anyone present from the Sheriff's staff that could give a presentation on this item tonight. Sheriff Cathey responded that he had no problem with the item being deferred until the next meeting.

Commissioner Rushing stated that at the September 18, 2006, meeting, he had questions regarding certain properties that are exempt from taxation. The Manager stated that information regarding this inquiry had been included as information in tonight's agenda package along with an update regarding the Gold Star Mothers' World War II Memorial Cross.

With there being no further additions or deletions to the agenda, Commissioner Pressley moved to adopt the agenda as modified with the deletion of Item #10 - Jail Architect Agreement. The motion was passed unanimously.

CONSENT AGENDA:

Chairman Lane stated that there was one addition to the Consent Agenda to add an item to approve the submission of an application by the Union County Library to the State Library of North Carolina.

Commissioner Pressley moved approval of the items listed on the Consent Agenda as modified with the addition of the Application for State Aid for the Union County Library. The motion was passed unanimously.

Tax Administrator: Approved Fourth Motor Vehicle Billing in the Total Amount of \$1,051,752.62.

Tax Administrator: Approved Departmental Monthly Report for August 2006.

Tax Administrator: Approved Releases for September 2006 in the Grand Total Amount of \$84,833.51.

RELEASES SEPTEMBER 2006

Acct #	Name	Release #	Total
2006			
50094285	GRIFFIN MARY	1628	105.45
50093334	REDDING ROBERT	1629	120.10
50091180	AUTRY DONNA CHARLENE		145.32
50094268	GRIFFIN MARY	1631	105.45
06051046	SAYLOR CHRISTOPHER C & HEATHER	1633	
50066452	SAVE MORE INC	1634	471.79
50068917	CREATIVE HAIR DRESSERS	1635	35.17
09342342	NEWSOM SHAWN A & WIFE EMILY	1636	837.01
50083472	MERCY ANIMAL HOSPITAL PLLC	1637	101.56
50053204	JBC SERVICES INC	1638	252.57
02006010 02	PHIFER OLIVER BURTON & WF HELEN	1639	50.00
50092308	HOME MAID CLEANING SERVICES	1640	171.27
50091260	EXPRESS STOP FINANCING	1641	375.24
02316018	BRITT HAROLD R & WIFE ROSEMARY	1642	509.95
03087030	DENTON JANET D	1643	672.47
03168003C	BROOKS J HILTON & JOAN P	1644	200.72
03138003	EVANS BILLY SOWELL & WIFE MARGIE	1645	135.27
06054204	MDC HOMES CHARLOTTE LLC	1646	22.04
06054205	MDC HOMES CHARLOTTE LLC	1647	44.48
06054206	MDC HOMES CHARLOTTE LLC	1648	6.21
06054207	MDC HOMES CHARLOTTE LLC	1649	32.73
06054208	MDC HOMES CHARLOTTE LLC	1650	6.68
06054214	MCCAR HOMES-CHARLOTTE LLC	1653	2,062.45
50075351	CROSSROADS DINER	1654	61.51
50042853	BAKERS MACHINE SHOP	1655	110.88
06054223	MCCAR HOMES-CHARLOTTE LLC	1656	414.16
06054234	MCCAR HOMES-CHARLOTTE LLC	1657	2,496.98
06054245	MCCAR HOMES-CHARLOTTE LLC	1658	1,610.15
50075042	LADY BUG CREATION	1659	13.10
50068569	CATHCART ROGER & KATHY	1660	123.12
06117076	GOOLIE MELONIE MARIE	1661	55.94

06142065	WILLIAMS KRISTINE E & ERIK	1662	1,174.16
06142066	BEAZER HOMES	1663	1,289.22
06156009C	HOFFMAN JEFFREY K	1664	2,688.76
06201450	GIBSON LYLE R & SUSAN P LARSON	1665	1,866.65
06240071	WESTWOOD BUILDERS INC	1666	4,921.78
07021336	BONTERRA BUILDERS	1667	1,174.32
07021366	PRILES THOMAS	1668	174.88
07054003F	TOWN OF STALLINGS	1669	915.50
07054702	DECARO CHARLES S & WIFE VICTOR	1670	2,565.79
07075291	TOWN OF STALLINGS	1671	521.17
08078015	SIMPSON JEFFREY AUSTIN & WILLIAM	1672	667.71
08261003D	SEALS MONICA & TIM GREENE	1673	1,765.19
09273249	LILES LARRY E & BILLY F	1674	895.96
09384006G	PENEGAR EUGENE B & WF SHEILA W	1675	63.93
09087030	PHIFER MICHAEL L & MICHELLE T	1676	91.81
02167019	HORNE ENTERPRISES	1677	764.38
H1213004C	PURSER ROBIN & CHAD WALLACE	1678	148.73
02173009A	STRYKER BETTY IVEY CLIVE & NORMAN	1679	38.39
02217007	PIERCE JOE H	1680	1,205.28
04048014A	SCARBORO TIMOTHY R & WF BRENDA	1681	980.13
04135002A	KNIGHT GARY LYNN	1682	45.00
04306007	ROBERTSON FRANCES L & CURTIS	1683	22.77
04309016A	ROGERS MARK DAVID & KAREN T	1684	591.04
05115048	WIHEMENA BIGHAM	1685	544.98
H6123006	MORRIS BARBARA COX		223.63
06159126	PROVIDENCE GROVE HOMEOWNER'S ASSOC	1687	5.62
04132002A	PARKER WADE C & WIFE LEE H	1688	301.39
06159138	PROVIDENCE GROVE HOMEOWNER'S ASSOC	1691	1,297.22
06159150	PROVIDENCE GROVE HOMEOWNER'S ASSOC	1692	5.42
06159152	PROVIDENCE GROVE HOMEOWNER'S ASSOC	1693	3.12
06159169	PROVIDENCE GROVE HOMEOWNER'S ASSOC	1694	2.64
06159189	PROVIDENCE GROVE HOMEOWNER'S ASSOC	1695	5.62
06159190	PARK PROVIDENCE HOMEOWNER'S ASSOCIATION	1696	2.78
06159214	PARK PROVIDENCE HOMEOWNER'S ASSOCIATION	1697	0.75
06159215	PARK PROVIDENCE HOMEOWNER'S ASSOCIATION	1698	28.07
50090700	CARSTEN CONSULTING	1699	3.13
50083354	BEST CLEANING	1700	4.06
50095894	JOHNSON JOEY & MICHELLE	1701	99.53
50094771	MCCROSKEY SHERRIE	1702	108.18
08237010 70	HILLCREST CHURCH RD	1704	679.76
06159240	PARK PROVIDENCE HOMEOWNER'S ASSOCIATION	1706	1.29
06159241	PARK PROVIDENCE HOMEOWNER'S ASSOCIATION	1707	26.10
06165196	PRESCOT DEVELOPMENT LLC	1708	1,685.71
06168033	WHEELER HAROLD LEE	1709	204.75
07063252L01	VINTAGE CONDOMINIUMS ASSOCIATION	1714	816.98

	INC		
H7018006B	BLANCAS LAURA	1715	382.19
07123020	CALLARMAN JEFF & WF CHARMAIN	1716	1,369.97
H8063003D	GREENE CHARLES CLAYTON & DORIS LEET	1717	61.08
08237024	GRIFIN MARY D & KENDA D	1718	2,273.91
08237046	GRIFIN MARTY D & KENDA D	1719	1,618.55
08237047	GRIFIN MARTY D & KENDA D	1720	2,294.66
09090008F01	MOORE EDWARD H ETAL % LOIS FUNDERBURK	1721	37.54
09090008F02	MOORE EDWARD H ETAL % JANE MOORE AUSTIN	1722	55.12
09162016	BAUCOM WILLIAM R & JUDITH J	1723	559.98
09213037	MCGEE RAMONA R	1724	254.81
09232161	ROGERS CHARLES B & WF ALVA W	1725	17.19
09259075A	MOORE GALARD C JR & WF LYNDA S	1726	11.14
09336514	DAN MOSER COMPANY INC	1727	1,072.71
09402644	ST. JOHN'S FOREST HOMEOWNERS ASSOC.	1728	11.59
09402646	ST. JOHN'S FOREST HOMEOWNERS ASSOC.	1729	13.88
09402647	ST. JOHN'S FOREST HOMEOWNERS ASSOC.	1730	15.15
09402648	ST. JOHN'S FOREST HOMEOWNERS ASSOC.	1731	3.37
09402690	ST. JOHN'S FOREST HOMEOWNERS ASSOC.	1732	4.33
09402742	ST. JOHN'S FOREST HOMEOWNERS ASSOC.	1733	4.58
09402743	ST. JOHN'S FOREST HOMEOWNERS ASSOC.	1734	4.84
09402744	ST. JOHN'S FOREST HOMEOWNERS ASSOC.	1735	16.55
09402645	ST. JOHN'S FOREST HOMEOWNERS ASSOC.	1736	16.30
07015017E	CRUMP JAMES BOICE & MARTHA	1737	64.27
06207474	MONOGRAM BUILDING & DESIGN LTD	1739	1,930.20
09125011	OLIVIA & KEVIN SHAW	1740	334.18
02217008A	CRAIG LOUISE M ALDRIDGE	1741	602.05
02217008C	CRAIG LOUISE M ALDRIDGE	1742	216.90
06201910	OXFORD CONSTRUCTION COMPANY LLC	1743	3,750.77
06201935	MCCARTY EUGENE WARREN JR & WIFE SUSIE	1744	3,710.35
03156057	BANK OF AMERICA	1745	644.30
08120004C	BAUCOM THOMAS A WIFE LOIS F	1746	684.06
06069047	GOLIGHTLY WILLIAM J & WIFE JUDITH	1747	1,358.23
09052031	ONISICK SARAH M	1748	1,047.63
09052031B	ONISICK SARAH M	1749	336.62
08213065	PARNELL ROBERT E JR	1750	254.48
07057888	SHEPHERD BRIAN A & NICOLE H	1756	84.99
02202007	BLAIR MAURICE E TRUSTEE	1758	199.61
09399002F	CITY OF MONROE	1761	5,158.16
09232057	CITY OF MONROE	1762	1,892.97
09273014	CITY OF MONROE	1763	25.79
06153026A	HARRY SWIMMER	1764	2,359.23
07081010	SHERIN ROGER W & WIFE JOYCE P	1765	344.22

06045045	DOYLE & LORI ANN SHELTON	1766	219.82
04108004	FINCHER EDITH H	1767	385.76
09022017	POLK MATTIE LOU	1768	228.32
09232045	UNION COUNTY	1769	225.71
06198002	FCI REALTY & MANAGEMENT INC	1770	1,110.19
09235097	CITY OF MONROE	1774	124.60
08198007B	CROOK CLARA R	1775	131.43
08198007C	WALDEN ERIN B & CHRISTOPHER S	1776	646.46
Totals - 2006			81,117.19

2005			
08213065	PARNELL ROBERT E JR	1751	251.83
06198002	FCI REALTY & MANAGEMENT INC	1771	1,098.44
Totals - 2005			1,350.27

2004			
08213065	PARNELL ROBERT E JR	1752	238.12
06198002	FCI REALTY & MANAGEMENT INC	1772	1,037.13
Totals - 2004			1,275.25

2003			
08213065	PARNELL ROBERT E JR	1753	203.18
06198002	FCI REALTY & MANAGEMENT INC	1773	520.87
Totals - 2003			724.05

2002			
08213065	PARNELL ROBERT E JR	1754	183.22
Totals - 2002			183.22

2001			
08213065	PARNELL ROBERT E JR	1755	183.53
Totals - 2001			183.53

GRAND TOTAL TO BE RELEASED			\$ 84,833.51
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Tax Administrator: Approved Refunds for September 2006 in the Grand Total Amount of \$4,171.33.

REFUNDS SEPTEMBER 2006

Acct #	Name	Release #	Total
2006			
06054209	MCCAR HOMES-CHARLOTTE LLC	1651	414.16
06054211	MCCAR HOMES-CHARLOTTE LLC	1652	414.16
09078052	JOHNSON DAN W & JEAN W	1738	576.93
Totals - 2006			1,405.25
2005			
50093334	REDDING ROBERT LEE	1632	37.14
04132002A	PARKER WADE C & WIFE LEE H	1689	299.92
07144509	JOHNSTON CAROLYN & GEORGE	1703	130.79
08237010 70	HILLCREST BAPTIST CHURCH	1705	681.34
06168033	WHEELER HAROLD LEE	1710	240.26
07057888	SHEPHERD BRIAN A & NICOLE H	1757	83.40
02202007	BLAIR MAURICE E TRUSTEE	1759	220.44
07090648	HENRY HOWARD E JR & REMATTIE C	1777	89.02
Totals - 2005			1,782.31
2004			
04132002A	PARKER WADE C & WIFE LEE H	1690	285.41
06168033	WHEELER HAROLD LEE	1711	229.69
02202007	BLAIR MAURICE TRUSTEE	1760	208.20
Totals - 2004			723.30
2003			
06168033	WHEELER HAROLD LEE	1712	134.42
Totals - 2003			134.42

2002			
06168033	WHEELER HAROLD LEE	1713	126.05
Totals - 2002			126.05

GRAND TOTAL TO BE REFUNDED	4,171.33
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Criminal Justice Partnership: Approved Budget Amendment #15 to Criminal Justice Partnership Budget increasing Payments to Other Agencies by \$4,667 and State Revenue by \$4,667 to appropriate additional State funding for the Criminal Justice Partnership. (No additional dollars requested from County).

Health Department: Approved Budget Amendment #18 to the Smart Start Dental Outreach Program increasing Personnel Expenses by \$30,000, Operating Expenses by \$15,000 and Smart Start Revenue by \$45,000 to appropriate funding for Smart Start Dental Outreach Program. (No additional dollars requested from County).

Health Department: Approved Budget Amendment #16 to the Smart Start Hispanic Parent Educator Program increasing Personnel Expenses by \$35,000, Operating Expenses by \$5,000 and Smart Start Revenue by \$40,000 to appropriate funding for Smart Start Hispanic Parent Educator Program. (No additional dollars requested from County).

Health Department: Approved Budget Amendment #17 to the Communicable Disease Budget increasing Operating Expenses by \$20,000 and State Revenue by \$20,000 to appropriate funding for Communicable Disease.

Finance: Adopted Capital Project Ordinance #59 to the School Bond Fund-55 to appropriate funding for the Union County Public Schools Transportation Facility and Maintenance Renovations.

Library: Approved the transfer of 3,449 items of discarded library materials declared surplus by County Offices in accordance with N.C.G.S 160A0-274 to Lanesboro Correctional Institution in Polkton, North Carolina, for its new library without formality (resolution or contract).

Resolution Approving the Financing for the Purchase of Land by Bakers Volunteer Fire and Rescue Department, Inc.: Adopted Resolution Approving the Financing by Bakers Volunteer Fire and Rescue Department, Inc. of up to \$425,000.00 for the Purchase of Land:

County Board Resolution

Resolution Approving the Financing by Bakers Volunteer Fire and Rescue Department, Inc. of up to \$425,000.00 for the purchase of land.

WHEREAS:

Bakers Volunteer Fire and Rescue Department, Inc. has determined the need to finance an amount of up to \$425,000.00 for the purchase of land. The United States Internal Revenue Code requires that for such financing to be carried out on a tax-exempt basis, this Board must first approve the financing. The VFD has held a public hearing on the financing after published notice, as required by the Code. The VFD has reported the proceedings of the hearing to this Board.

BE IT THEREFORE RESOLVED by the Board of Commissioners of Union County, North Carolina, as follows:

1. The County approves the VFD's entering into the financing, as required under the Code for the financing to be carried out on a tax-exempt basis. The VFD's conduct of the required public hearing is approved, provided that Union County makes no representation as to the sufficiency of the public hearing for any purpose whatsoever.

2. Union County's approval of the VFD's entering into the financing does not obligate the County or its Board of Commissioners in any way regarding repayment of the debt.

Consent to Withdrawal of Dedication of Sewage Easement in Chatelaine Subdivision: Authorized Chairman to execute Withdrawal of Dedication of Sewer Easement appearing on a map recorded in Plat Cabinet H, Files 869-873, which was dedicated at the time the developer, RR Development North 1, LLC, recorded the plat.

Report of Fire Conditions: Appointed the following persons as Trustees to the Fireman's Relief Fund as recommended by the various departments:

1. Allens Crossroads VFD: 1) Thomas Baker and 2) Darren Knight
2. Bakers VFD: 1) Tommy Neal Secrest and 2) William T. McCain
3. Beaver Lance VFD: 1) Baxter Jordan and 2) Scott Howard
4. Fairview Fire and Rescue: 1) Brian C. Austin and 2) Jody Mills
5. Griffith Road VFD: 1) Steve Brooks and 2) David Fuss
6. Hemby Bridge VFD: 1) Kevin Tice and 2) Paul Ramsey
7. Jackson Community Center & VFD: 1) Albert J. Starnes and 2) T.C. Carter
8. Lanes Creek VFD: 1) Jackie Price and 2) Shirleen Tucker
9. Mineral Springs VFD: 1) Robert L. Belk and 2) Tony Belk
10. New Salem VFD: 1) Larry R. Clontz and 2) Garry S. Moore
11. Providence VFD: 1) Andrew Ansley and 2) Daryl Matthews
12. Sandy Ridge Fire and Rescue: 1) Jeff Tarlton and 2) Jamil Hudson
13. Stack Road VFD: 1) Tony Helms and 2) Ralph Funderburk
14. Stallings VFD: 1) Jimmy Younts and 2) James E. Hinson

15. Unionville (Town of): 1) Billy Canupp and 2) Johnny Griffin
16. Waxhaw VFD: 1) Louis Morse and 2) Robert Fitzgerald
17. Wesley Chapel VFD: 1) James Kubach and 2) James Mullis
18. Wingate (Ames) VFD: 1) R. Braddock Sellers and 2) W. Elliott Ward

Union County Library: Approved submission of application to the State Library of North Carolina in the approximate amount of \$191,000 (no local match) and authorized the Chairman to execute application.

CONSIDERATION OF INCENTIVE GRANT: PROJECT WALT:

Commissioner Stone moved approval of an incentive grant to the Darnell Company in the total amount of \$164,441 to be paid over a five-year period.

Following a brief discussion, the motion was passed unanimously.

BRIEFING BY LARRY HELMS, NORTH CAROLINA DEPARTMENT OF TRANSPORTATION REPRESENTATIVE, REGARDING UNION COUNTY ROAD PROJECTS, INCLUDING THE MONROE BYPASS:

Larry Helms, Board Member of the North Carolina Department of Transportation, reported on some of the road improvements that have taken place in Union County, including Highway 74, U.S. Highway 601, Secrest Shortcut Road, and Lawyers Road.

Mr. Helms reported that there have been good discussions with Weddington on trying to get Rea Road brought through to Highway 84. Mr. Helms stated that he has requested money for this project, and it is the number one project for Union County exclusive of the Monroe Bypass. He stated that support is needed for this project. He said that hopefully there would be some opportunities with private enterprise where a major portion of the road could be completed, and if so, then it would be easier to obtain monies to finish up the last part of the project.

He reported that the improvements for Highway 16 are still scheduled for the upcoming year.

Mr. Helms addressed Item 12 on tonight's agenda regarding a Resolution in Opposition to a Control of Access Fence along U.S. Route 601 South. He explained that the State, with Federal support, is buying land to put a four-lane road on U.S. Highway 601 South. He further explained that one of the reasons that the State is buying the land is to be able to control access. Mr. Helms said that the residents along U.S. Highway 601 South will continue to have their access, but it will limit future growth.

Mr. Helms shared that he and Barry Moose, who is the Division Engineer for the Department of Transportation, have had a number of conversations about the fencing. He said that it is the Department of Transportation's goal to stop the fence so that the people who face the road where part of their yards are being taken, but the house is still facing

the road, will continue to have a reasonable view to the road rather than a wire fence running in front of their houses.

In regards to the connector, Mr. Helms said that Stallings, Hemby Bridge, Fairview and Union County have come to an agreement about the no fill/no build with a 35-foot setback.

He said that they had heard from the communities that they did not want the A Section of the Bypass, which was from Marshville up into the Rocky River Road area to Highway 74 and stopped near the front yard of Craft Homes. He explained that there is also a G Section that runs that same route which comes out near Highway 601 North and follows the A Section and goes up Highway 74. Mr. Helms said that he wanted to make it clear that issue is still on the table.

He discussed the dangers on Highway 218. He stated that he is looking at pulling some monies that would have been spent on the connector to try and improve Highway 218.

Mr. Helms stated that a consultant had been hired to look at improvements on Highway 74.

He stated that a resolution has been adopted by MUMPO to put the final study on the connector and Sections B and C in the hands of the Turnpike Authority. He said that the study is to be done so that the road could be built as a toll road or in a conventional manner. Mr. Helms stated that there is one hundred million dollars slated under the Transportation Improvement Program (TIP) for the connector and Sections B and C.

At the request of Vice Chairman Sexton, Mr. Helms addressed the importance of having one environmental document for the Bypass and Connector. He said that if the process were started anew, it would take six or seven years with the current process.

SHERIFF'S MOBILE COMMAND CENTER:

Commissioner Stone moved adoption of Budget Amendment #19 to the Sheriff's Office Budget increasing Capital Expense by \$25,604 and decreasing Contingency by \$25,604 to cover the additions and deletions to the original specifications to the Mobile Command Center.

In response to a question by Commissioner Rushing regarding the total cost of the mobile command center, Sheriff Cathey stated the total cost is \$390,000.

Chief Deputy Ben Bailey stated that the Sheriff's Office representatives had met with the design consultants in Wisconsin and reviewed the specifications line by line. He said as the Sheriff's representatives clarified the department's expectations including the performance expectations, the experts made suggestions that would make the operation of the truck more efficient, more user friendly, and extend the capability of the truck. Chief

Deputy Bailey stated that they were able to observe entities that had purchased vehicles from the manufacturer and were able to integrate design changes that would serve a more useful purpose for a longer period of time for the truck.

Sheriff Cathey added that the additions also would extend the maintenance of the truck. He explained that the Sheriff's Office has applied for a UASI grant for the additional monies. He said that if the grant were not approved, then they would be able to cover one-half of the additional costs from drug forfeiture monies. He stated that they were asking for the \$25,603.50 as matching funds for the grant.

Vice Chairman Sexton asked if the additional costs would have impacted the bidding process in any way. Sheriff Cathey stated that it would not have impacted the process.

Commissioner Rushing questioned why the total cost of the additions to the mobile command center could not be paid from the forfeiture monies. The Sheriff stated that the total amount probably could be taken from the forfeiture monies, but said they use those monies for other purposes, and they did not want to completely deplete that fund.

Following the discussion, the motion was passed unanimously.

CONSIDERATION TO CALL FOR A PUBLIC HEARING ON REQUEST BY THE VILLAGE OF WESLEY CHAPEL FOR EXTRA TERRITORIAL JURISDICTION (ETJ):

The following Resolution of the Village of Wesley Chapel was included in the agenda package:

**RESOLUTION
OF THE
VILLAGE OF WESLEY CHAPEL
FOR EXTRATERRITORIAL JURISDICTION
2006-18**

WHEREAS, the Village of Wesley Chapel was established by charter in 1998 as a rural community with a small town feel, and

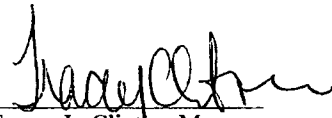
WHEREAS, the Village desires to create a uniform and properly managed environment as it grows through voluntary annexation of parcels that are both within and adjacent to its borders, and

WHEREAS, the Village also desires to maintain the development of a cohesive and coordinated environ for its citizens, as described in both its Land Use Plan and Resolution of Consideration Area,

NOW, THEREFORE, BE IT RESOLVED that the Village of Wesley Chapel respectfully requests that the Union County Board of Commissioners authorize and grant Extraterritorial Jurisdiction to the Village of Wesley Chapel for the parcels listed in Exhibit A.

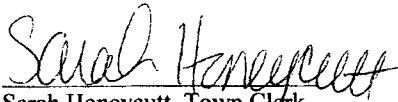
Parcel Identification Numbers

(See Attached Exhibit A and Map)



Tracey L. Clinton, Mayor

Attest:



Sarah Honeycutt, Town Clerk

Parcel Number	Notes	Parcel Number	Notes	Parcel Number	Notes
06003006		06048022		06048072	
06003014		06048023		06048073	
06003015		06048024		06048074	
06003019		06048025		06048075	
06003022		06048026		06048076	
06003023		06048027		06048077	
06003044		06048028		06048078	Portion of parcel is in Wesley Chapel
					Portion of parcel is in Wesley Chapel
06006005		06048029		06048079	
06006005		06048030		06048080	
06006010		06048031		06048081	
06006012		06048032		06048083	
06006111	Portion of parcel is in Wesley Chapel	06048033		06048084	
06006112	Portion of parcel is in Wesley Chapel	06048034		06048085	
06027007		06048035		06048086	
06030001		06048036		06048087	
06030003		06048037		06048088	
06030003		06048038		06048089	
06042001		06048039		06048090	
06042006		06048040		06048091	
06042013		06048041		06048092	
06042014		06048042		06048093	
06042016		06048043		06048094	
06042018		06048044		06048095	
06042019		06048045		06048096	
06042020		06048046		06048097	
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06042063		06048048		06048099	
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06048020		06048070		06048120	
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Resolution 2006-18
EXHIBIT A
 Wesley Chapel ETJ Request
 List of Parcels

Parcel Number	Notes
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Resolution 2006-18
EXHIBIT A
Wesley Chapel ETJ Request
List of Parcels

Parcel Number	Notes	Parcel Number	Notes	Parcel Number	Notes
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Resolution 2006-18
EXHIBIT A
Wesley Chapel ETJ Request
List of Parcels

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06102276	
06105012	
06105015	
06105018	
06105030	
06105037	
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Parcel Number	Notes
06105079	
06105082	
06105083	
06105084	
06105085	
06105086	
06105087	
06105088	
06105089	
06105090	
06105091	
06108018	
06108019	
06108020	
06108021	
06108022	
06108023	
06108024	
06108025	
	Section of Parcel west of West Fork of Twelve Mile Creek is excluded from ETJ Petition
06159010	
07096006	
07096007	
07096008	
07096009	
07096010	
07096011	
07096012	
07096013	
07096014	
07096015	
07096027	
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07096032	
07096033	
07096034	
07096035	
07096036	
07096037	
07096038	
07096090	
07096091	
	North section and narrow connector between North and South section of this parcel are excluded from ETJ Petition
07120014	
07123003	
07123004	
07123005	
07138186	
07138193	

Parcel Number	Notes
07138201	
07138210	
07138214	
07138222	
07138235	
07138236	
07138237	
07138242	
09402013	
09402013	
09402013	
09402014	
09402101	
09402113	
09402147	
09402150	
09402155	
09402156	
09402157	
09402158	
06003006A	
06003006B	
06003014A	
06003014B	
06003014C	
06006005A	
06042002A	
06042002B	
06042003A	
06042006D	
06042006E	
06042006G	
06042006H	
06042006I	
06042006K	
06042006M	
	Portion of parcel is in Wesley Chapel
06042007G	
06042014A	
06042025A	
06042025B	
06042025C	
06045004A	
06045005A	
06045005B	
06045005D	
	Portion of parcel is in Wesley Chapel
06045005E	
06045005F	
06045005G	
06048007H	

Parcel Number	Notes
06048007J	
06048007P	
06048007R	
06048010 90	
06048127 90	
06048128 90	
06048349 90	
06051001B	
06051004C	
06051004F	
06051004G	
06051004K	
06051006B	
06069002D	
06069002G	
06069003D	
06069003H	
06069003J	
06069003K	
06069005A	
06069005B	
06069005C	
06069005D	
06069005E	
06069005F	
06069005G	
06069005H	
06069005J	
06069005K	
06069005L	
06069006A	
06069006B	
06069006C	
06069007A	
06069007B	
06069007C	
06069007D	
06069009D	
06069022A	
06072001F	
06072001G	
	Portion of parcel is in Wesley Chapel
06072007M	
06075005A	
06075016A	
06075016B	
06078006C	
06078006E	
06102002B	
06102002G	
06105014F	

Resolution 2006-18
EXHIBIT A
Wesley Chapel ETJ Request
List of Parcels

Parcel Number	Notes		
06105014G			
06105014H			
06105030A			
06105030B			
06105030C			
06105030D			
06105036B			
06105036B			
06105057A			
07120006E			
07120006J			
07138003A			
09402001A	Portion of parcel is in Wesley Chapel		

Wesley Chapel

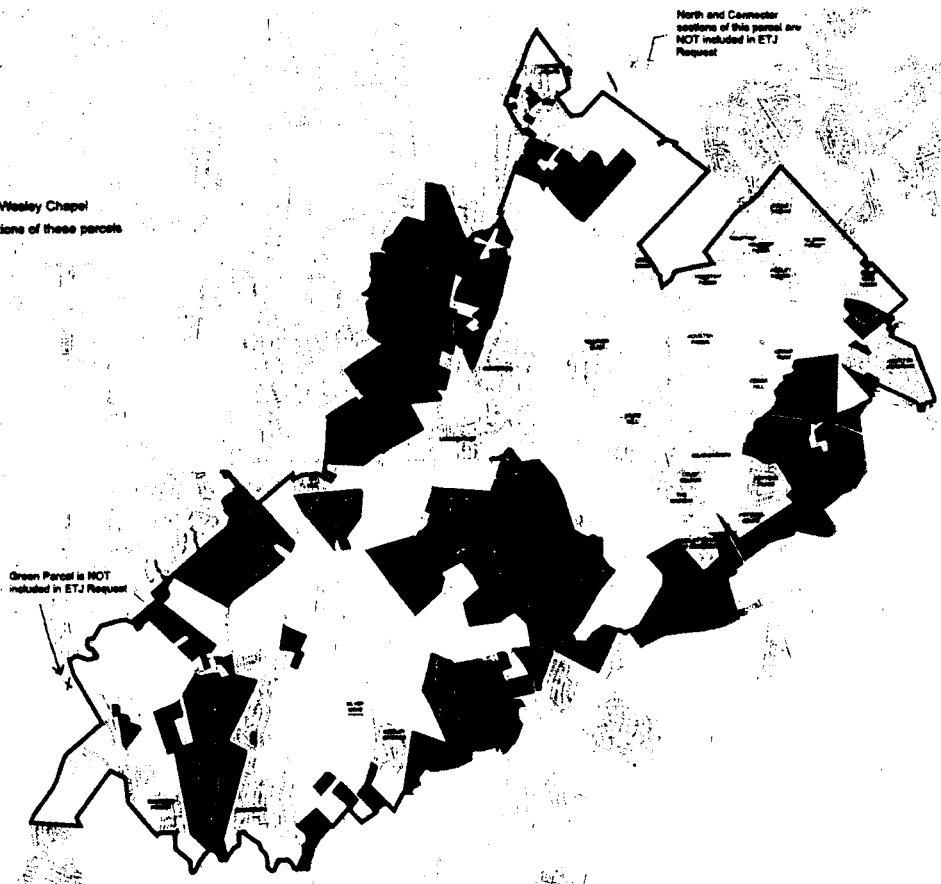
Designated Area

- Not in Village Requesting ETJ
- In Village
- Partially In/Out of Village Requesting ETJ on portion outside of Wesley Chapel
- Portion of Parcel Outside Designated Area Requesting ETJ on portions of these parcels
- Parcel shown by County as in Village, but not in Village Not included in ETJ Request



Prepared by Citistone
Council of Governments
September 28, 2004

1000 0 1000 2000 Feet



North and Connector
portions of this parcel are
NOT included in ETJ
Request

Green Parcel is NOT
included in ETJ Request

Portion of parcel West of
the West Park of 12 Mills
Creek is NOT included in
ETJ Request

Commissioner Stone moved approval to call for a public hearing on the request by Wesley Chapel and to authorize the Clerk to the Board of Commissioners to advertise the public hearing.

Commissioner Rushing questioned how the parcels had been selected to be included in the ETJ request.

Tracey Clinton, Mayor of the Village of Wesley Chapel, presented an update on the Village's ETJ process. She stated that since the Village incorporated in 1998, the only way that Wesley Chapel has grown has been through voluntary annexations, which have resulted in irregular borders and doughnuts as shown on the map. Mayor Clinton said that a recent court decision has taken away the right for small towns like Wesley Chapel to do involuntary annexations to round out its borders and fill in their doughnuts.

She stated that in November 2005 the community voted in four new council members in Wesley Chapel whose platform had been to develop a long-term detailed growth plan for Wesley Chapel, one that incorporates the priorities and visions of the residents. She said that they are calling it their master plan which expands the Village's already approved land use plan that documents the Village's current vision for Wesley Chapel, which is to retain the small town feel.

Mayor Clinton stated that for a town the size of Wesley Chapel the state statutes allow ETJ consideration for parcels up to one mile outside the town boundaries. She pointed out that on the Village's ETJ proposal map, its scope is very small compared to what is allowed by the state statutes. She said that for its ETJ process, the Village has used David Owens from the North Carolina School of Government as a consultant and resource. Mayor Clinton stated that Mr. Owens has reviewed the maps and letters sent to the landowners in the proposed ETJ area, evaluated the Village's decision making process on ETJ, and the Village's Resolution for ETJ included in the package.

She said that Wesley Chapel has met the North Carolina General Statute requirements for landowner notification of ETJ and can provide a list of parcels that were included in the Village's original ETJ consideration area which she stated has been dramatically reduced, the mail merge file that was used to create the mailings to the landowners, and a copy of the affidavit signed by Councilman Brad Horvath and Mayor Clinton certifying that all of the letters were mailed at the correct time. She stated that the town held a public hearing on September 7th at the Wesley Chapel Elementary School Gym with approximately 250 people in attendance. She said that during the public hearing, 36 people had given public comments.

Mayor Clinton requested that the Board consider calling for the requested public hearing.

Commissioner Rushing asked Mayor Clinton if residents request not to be included in the ETJ, would the town be willing to work with the landowners and exclude them from the ETJ request.

Mayor Clinton responded that the Village Council approved the resolution with the parcels that are included. She said there had been a very deliberate process that they went through to determine what made sense to the community to control its future and develop in accordance with its Land Use Plan and its future master plan. She further said that if there are specific parcels that need to be re-evaluated, that the Council would like to understand what those parcels are and to work among itself and to work with the Board of Commissioners.

Commissioner Stone stated that as the one making the motion, he wanted it to be very clear to the audience that the Board of Commissioners is not mandated by statute to hold a public hearing on this issue. He said the Board could make a decision on the request tonight. He explained that the motion that he made was to relieve the stress that might be out there by allowing the citizens of the community to come forward with their comments at the Board of Commissioners' next meeting. He said that he believed it is important for the citizens to have a second opportunity to voice their comments.

Commissioner Pressley stated that he had received a call this afternoon that one of the larger landowners would be unable to attend the October 16th meeting.

He offered an amendment to the motion that the public hearing be scheduled for the November 6th meeting in order to give that landowner an opportunity to attend the public hearing.

Vice Chairman Sexton questioned why the Town Council had decided against annexation. Mayor Clinton responded that because of the current decisions that have been made by the courts both with Marvin and Weddington attempting involuntary annexations, the courts have ruled that small towns that do not provide any services above and beyond what the County already provides do not have the ability to do involuntary annexations. She noted that those cases are still pending on appeal, and depending upon how those cases turn out, involuntary annexation may become an option in the future.

She explained that voluntary annexation has to be initiated by the landowner. Mayor Clinton stated that they have had voluntary annexations in the past, and the Village welcomes voluntary annexations.

In response to a further question by Vice Chairman Sexton, Mayor Clinton stated that ETJ was the only other option that the Council had found.

Vice Chairman Sexton asked Mayor Clinton what had prompted the reduction in the original size of the ETJ request to its current size. Mayor Clinton responded that as she had tried to explain in the public hearing held by Wesley Chapel, when the Council

had talked originally about pursuing ETJ and decided to move forward, the Council had to determine some parcels that would be included in the ETJ for consideration so that the appropriate notices could be mailed. She stated that the Council has a resolution of consideration for future annexation that has been the same for several years within the town, and the Council decided that it made sense to take that as the beginning scope of the ETJ. She stated that currently there are 1,184 parcels in the ETJ scope. Mayor Clinton said that currently there are 2,250 parcels in Wesley Chapel.

She stated that there are only 10 parcels included in the proposed ETJ area that are above 50 acres and 17 parcels containing between 20 acres and 50 acres. Mayor Clinton said that out of the 1,184 parcels included in the proposed ETJ area, there are 260 parcels above one acre in size.

Vice Chairman Sexton offered a second substitute motion to cancel the regular meeting of October 16th and hold a special meeting on October 23rd.

Commissioner Rushing asked if notification would be sent to the affected landowners in the County's public hearing process. He suggested that the motion include that notices be sent to those landowners affected who live within the County. He said that he thought the public hearing should be held during a regularly scheduled meeting on a first or third Monday of the month.

Mr. Shalati questioned for clarification purposes if Commissioner Rushing were suggesting that the County send the notifications. Commissioner Rushing stated that he would like for the County to make provisions by preparing a mailer informing the residents of the date and time of the public hearing and how they would be affected.

Commissioner Pressley stated that he would be out of town on October 23rd. He asked if the Mayor considered Union Power to be exempt from the ETJ request.

Mayor Clinton said that it was her understanding that the permit had been granted by the County, and it was not their intent to pursue anything on that with the ETJ request.

Commissioner Pressley asked Mayor Clinton to comment about the schools' request to be exempted from the ETJ request. Mayor Clinton stated that was for the Board of Commissioners' consideration. She said that she and Dr. Davis have had conversations about ETJ on the Cuthbertson Road property. She stated that she did fully understand Dr. Davis' point of view about needing to build schools fast and as cost efficient as possible. She said there were a number of people who came to the public hearing who live along Cuthbertson Road and in Champion Forest Subdivision that had requested that the Village include that parcel in the ETJ resolution.

Mayor Clinton stated that Dr. Davis had commented earlier tonight that he is willing for the schools' representatives to meet with the neighbors in that area and to address their issues, the ones that can be addressed and help them to understand the issues that cannot be addressed. She said that she is fully supportive of that process.

Commissioner Pressley referred to the statement that Mayor Clinton had made earlier in her presentation that Councilman Hovarth and she had certified that notices had been sent to the affected residents. He said that it was his understanding that during that public hearing, there were a number of people who said that they did not receive notice of the public hearing. He questioned if it were known for sure that every person who owns parcels of land within the requested ETJ area were sent notices.

Mayor Clinton responded that all she could say was that she had the mail merge file of how the letters were created; the letters were printed at Kinko's; the Village was charged for the exact number of copies as the number of parcels, and the notices were all stuffed in envelopes, stamped, and mailed. She added that the laws do not require the Village to certify delivery of those letters. She said that she could not specifically swear that every single person received his/her letter, because she does not know that for sure. Further, she said that she also did not know how many of those people at the public hearing raising their hands maybe were not in the area but thought they were included in the area. She stated that unless they had names and could do verifications, it was difficult to prove.

Commissioner Pressley asked if the Village had its own zoning board. Mayor Clinton stated that the Village has its own Planning Board and a Board of Adjustment. She added that the statutes require that if ETJ is approved, that an appropriate portion of positions on both of those boards would have to be given to people in the ETJ area, and the statutes allow the Board of County Commissioners to appoint those members or to grant the authority to make those appointments to the town.

Mayor Clinton said that the Village contracts with Centralina Council of Governments (COG) to administer the Village's planning and zoning. Commissioner Pressley asked if at any time in the ETJ process had Weddington or Waxhaw been contacted and a round table discussion held with their representatives. Mayor Clinton said that they had not specifically reached out to those communities when they were discussing ETJ. She added that in reviewing the final resolution by Wesley Chapel, she did not believe they have intruded on any other town's area and have stuck very close to Wesley Chapel's borders.

Commissioner Rushing questioned if the public hearing would be based on the map of the ETJ area as presented by Wesley Chapel or would the Board of Commissioners modify it to go back to the doughnut hole intent of just areas totally surrounded by the Village. He said the map shows areas that are completely surrounded and there are others that are on the outskirts of the Village.

Jeff Crook, Senior Staff Attorney, responded that the County is not required to hold a public hearing, so it is not required to provide notice. Further, he said that if the Board decides to grant ETJ, it could be for a lesser area than has been requested.

Commissioner Stone stated that while he has meetings scheduled for October 23rd, he is willing to shift those meetings and attend the Board meeting.

Chairman Lane said that he thought it was a capital idea to hold the hearing on October 23, because if it is going to be a public hearing, there will be a good number of people attending the meeting, and if that is the only order of business that night, it would be to the advantage of everybody concerned.

Commissioner Pressley stated that his understanding of the motion was to move the October 16th meeting to October 23rd. He suggested since he was going to be unable to attend the meeting of October 23rd, that the public hearing be called for the first meeting in November at 6:00 p.m. Commissioner Rushing added that he was willing to go to Wesley Chapel and hold the public hearing.

Vice Chairman Sexton said that he believed that Wesley Chapel has fulfilled the statutory requirement of mailing the notices, and the County's participation in the process is strictly optional. He stated that he thought notification in the newspaper in the normal way and having the Clerk advertise it is all that is needed.

Commissioner Rushing said that he was told by the Police Chief in Stallings that he and his family are affected by the ETJ decision and that he was not notified or received the mailing for the public hearing. He stated that he believed what Mr. Plyler had told him that he did not receive a notice. He said that the people being affected need to be informed of the public hearing.

Chairman Lane asked if Mayor Clinton had a list of those persons who had said that they were not apprised of the public hearing. Mayor Clinton said that Mr. Plyler has a copy of every document that has been done involving the ETJ.

Chairman Lane asked Mayor Clinton if Mr. Plyler's family had been notified officially. Mayor Clinton responded that she would consider the fact that they showed up at the public hearing in effect that this process was going on and they understood it.

Mr. Crook responded that Mayor Clinton could not address the adequacy of the legal notice any better than she has tonight, but he said that he did not believe it was an issue that could be resolved this evening.

Commissioner Stone moved to call the question on the substitute motion by Vice Chairman Sexton.

The Chairman requested that the Vice Chairman restate his motion.

Vice Chairman repeated his motion as follows: "to have the next regularly scheduled meeting of the Board on October 23rd and not October 16th."

Commissioner Rushing then asked to offer a substitute motion.

Vice Chairman Sexton called for a point of order stating that there could only be two substitute motions on the floor.

After an attempt by Commissioner Rushing to make further comments on the substitute motion, Commissioner Stone reminded the Chairman that he had called the question.

The motion to call the question on the substitute motion passed by a vote of three to two. Chairman Lane, Vice Chairman Sexton, and Commissioner Stone voted in favor of the motion. Commissioners Pressley and Rushing voted against the motion.

Commissioner Pressley reiterated that he would not be present on October 23rd and stated that his substitute motion was to schedule the public hearing on November 6th.

Chairman Lane called for a vote on the substitute motion by Vice Chairman Sexton. The substitute motion was passed by a vote of three to two. Chairman Lane, Vice Chairman Sexton, and Commissioner Stone voted in favor of the substitute motion. Commissioners Pressley and Rushing voted against the substitute motion.

JAIL ARCHITECT AGREEMENT:

This item was deleted from the agenda and postponed until the October 23rd meeting.

PLANNING DEPARTMENT:

a. Proposed Amendment to the Union County Land Use Ordinance that Would Establish an Adequate Public Facilities Ordinance (APFO)

Vice Chairman Sexton gave introductory comments regarding the Ordinance and the background surrounding the Ordinance. He said that this initiative was introduced at the Board's April 19, 2004, meeting. He stated that it has taken two and a half years to craft this ordinance with participation from staff, the legal department, stakeholders and consultants, 16 jurisdictions, 14 municipalities, the Board of Education, and the Board of Commissioners. Vice Chairman Sexton further stated that Union County has never attempted anything this broad in magnitude or scope in the County's history. He said that the process has involved 25,000 man hours from the staff, task force, stakeholders, consultants, and legal team to craft and hammer out the details and parameters of this ordinance.

Vice Chairman Sexton said that he was proud to have led the APFO initiative and to have the opportunity to bring Union County's APFO to fruition.

Following his comments, Vice Chairman Sexton moved adoption of the Adequate Public Facilities Ordinance as presented including the Compliance Statement in accordance with the provisions of N.C.G.S. 153A-341.

Commissioner Pressley questioned which version of the APFO the Board was voting on tonight.

Mr. Black responded it was the one recommended by the Board of Commissioners.

Commissioner Pressley further questioned if this version included the recommendations of the Planning Board and the task force committee. Mr. Black responded that he remembered five or six policy issues that the consultant reviewed with the Board at a workshop on July 10th.

Commissioner Pressley said the Planning Board had made a recommendation and Mayor Becker and another Planning Board member had come before the Board of Commissioners and said that they had strong concerns about looking outside the districts for the tests. Mr. Black confirmed that this information was correct. Mr. Black further confirmed that the Ordinance for the Board's consideration does contain that language. Commissioner Pressley commented that the Ordinance is not in harmony with some of the recommendations of the municipalities, Planning Board, and the task force. Mr. Black stated that there were some differences in what had been recommended by the Board of Commissioners and that which had been recommended by the Planning Board and Task Force.

Mark White, Consultant, explained that the Ordinance before the Board for consideration is substantially the same Ordinance with a few differences.

At this time, Commissioner Pressley continued his questions with Vice Chairman Sexton calling for a point of order that the APFO that was recommended by the Board of Commissioners at its September 18, 2006, meeting was the version before the Board tonight.

After hearing the reasons for the point of order called by Vice Chairman Sexton, the Chairman allowed Commissioner Pressley to continue with his questions. Commissioner Pressley asked for an explanation of the points that differed in the Ordinance before the Board from what had been recommended by the Planning Board and the Task Force.

Jim King, Chairman, Union County Planning Board, reviewed differences in the recommendations on the following points:

1. Rate of Growth - Mr. King stated that the Planning Board and the Task Force never really discussed this issue. He said that the consultant

recommended three and a half to four percent, and the Board of Commissioners had recommended four percent.

2. Phasing schedule/waiting period: Time (5-6 years) - He stated that neither the Planning Board nor the Task Force recommended this time frame, but everyone had to come under the APFO.

Schedule (eg 25/25%) - After waiting 5 years, could either construct 25 percent of the development or 25 total houses by rights. Neither the Planning Board nor the Task Force recommended but said that everything should come under the APFO ordinance as it was stated.

3. Consider maximum capacity - Staff recommended the extra step on maximum capacity with limited benefits. The Planning Board and the APFO Task Force both recommended that maximum capacity could never be exceeded by right. Mr. Black added that it could either be five or ten lots. He explained that if it were constructed at maximum capacity, the Planning Board recommended an annual rate of build out of five dwelling units and the proposed APFO recommends annual rate of build out of ten dwelling units. Mr. King clarified that it would be five lots for every development not a total.
4. Adjoining school capacity - Mr. King stated that the Task Force and the Planning Board both recommended that only the high school district should be considered. He explained that the adjoining elementary schools would be considered in that particular high school district, but if there was an elementary school beside it in another high school district, it could not be considered. He said that staff recommended considering adjoining elementary schools. Mr. King said that the Planning Board and Task Force had both recommended adhering strictly to the high school boundary lines for capacity. Mr. Black added that for this issue, all capacities would be added up, so if there was some adjacent capacity that was negative, it pulled away from the capacity.

5. Planned Capacity - had to be under construction - Mr. King said that the Planning Board and APFO Task Force and the staff consultant disagreed on whether or not the school had to be under construction. He said if a school were on the Schools' CIP for two years, then it would be considered capacity. He stated that the Task Force and the Planning Board both felt that it did not necessarily have to be under construction, but at least a contract would have to be let on the school. He explained the reasoning behind that was that according to the school system, it takes a year to construct an elementary school, a year and a half to construct a middle school, and two years to construct a high school. Mr. King said it is possible that the development would be built quicker than the school would be constructed.
6. Weighted average - Mr. King said that the Task Force and Planning Board had recommended a three-year weighted average rather than a straight average for the last three years on building permits. The staff consultant recommended unweighted average. He explained that the partial reasoning behind that was when looking at the building permits that have been issued over years, they jump considerably over the last three years. He noted that this was one of the points that the Board of Commissioners had agreed with during its meeting on July 10th to use the weighted average.
7. Retest at Final Plat - Mr. King said that the Planning Board and APFO Task Force thought a test would be done to see if capacity was available for the preliminary plat and when a final plat was done, it would be rechecked to make sure that capacity was available. He stated that the staff and consultant thought it should be eliminated and capacity should only be checked at preliminary plat.
8. Allow new phasing schedule if schools added - Mr. King stated that staff and consultant recommended considering it, and the Planning Board and APFO Task Force recommended that it not be considered.

Chairman Lane asked what percentage of the plan the changes affect. Mr. King stated that he did not think that anyone had that percentage. He stated that the Ordinance before the Board was much more liberal than what either the Task Force or the Planning Board had recommended.

Mark White stated that it was believed the Ordinance would be more defensible if it were more flexible.

Chairman Lane stated that he personally felt it was bending over quite a bit for the developers.

Commissioner Rushing stated that he was not going to support the Ordinance. He stated that the way to manage growth is to manage it with utilities. He said that there have been opportunities to slow down growth with the sewer, and rather than taking those opportunities, the Board has waited for this "magical" APFO.

Commissioner Rushing told Mr. White that he believed that he had made the APFO as legally defensible as possible.

Commissioner Pressley said that he was not going to support the Ordinance either. He said that in his opinion the Ordinance is not ready and is not complete. Commissioner Pressley said an APFO could have been a great tool to use if it were done correctly.

Vice Chairman Sexton stated that the APFO issue has been before the County for two and a half years, and it is the broadest and most comprehensive growth management effort that the County has ever undertaken.

Commissioner Rushing moved that the Board go into a recess to allow him to have a conversation with Vice Chairman Sexton regarding his comments. As Vice Chairman Sexton continued his comments, Commissioner Rushing repeatedly requested that the Board go into a recess. The Chairman did not call for a recess.

The Chairman called for a vote on the motion, which failed by a vote of two to three. Commissioners Rushing and Pressley voted in favor of the motion. Chairman Lane, Vice Chairman Sexton, and Commissioner Stone voted against the motion.

Commissioner Rushing again asked that the Chairman call a recess to maintain order of the meeting.

The Chairman asked that Vice Chairman Sexton continue with his comments.

Chairman Lane referred to a newspaper editorial that stated that "80 percent of the people across the State feel that something has to be done [about growth] and they want the builders to share in the cost of the services." He said that the APFO is strictly voluntary. He stated that the APFO is the only tool available to try and manage growth. Chairman Lane said that the County has a double-edged sword. He said that Commissioner Rushing had discussed the fact that growth needs to be controlled with water and sewer. He said that while it is true that growth can be controlled with the water and sewer, industry is needed in the County and if there is not capacity in the sewage plants, then the County cannot take care of the industries' needs.

Chairman Lane said that he thought the APFO will be effective, and it will be to the advantage of the municipalities, because their taxes also pay for schools all over the County. He said that surveys show that growth does not pay for the new services required.

Commissioner Rushing stated with all due respect to the comments by the Chairman, in his opinion why growth does not pay for itself is because of decisions made by the elected leaders and not because people want to live here. He discussed the voluntary mitigation payment saying that the payment is not coming from the developer but will come from the person who is buying the home.

Commissioner Pressley said that the larger builders could pay the mitigation payments while the smaller builders cannot pay the amount.

Commissioner Stone thanked Mr. White for being present tonight. He said that he had had a few telephone calls and he felt that it was important to make it clear to the citizens tonight before the vote was taken on the APFO that the school system is not controlled by the APFO. He said that the school system can move the district lines for their schools anywhere they need to do so, and that the APFO does not control those lines.

Mr. White responded that Commissioner Stone's statement was correct.

Commissioner Rushing questioned if the North Carolina Courts have any ability to mandate that school districts be redrawn in order to be able to accommodate the APFO.

Mr. White responded that he did not believe so. In response to a further question by Commissioner Rushing whether the courts have jurisdiction over the school board, Mr. White said that the courts do have jurisdiction over the school board. He said that there are statutes and regulations under which the school board operates. He stated that the issue of redistricting is completely separate from the APFO. Mr. White explained that the APFO uses the districts that the school board has established in order to determine whether or not facilities are adequate. He said that the County's Planning Department is not involved at all in how those districts are drawn. He stated that whenever those districts are redrawn, the capacities are recalculated based on those districts.

Commissioner Rushing questioned why the recommendation of the Planning Board had been excluded from what is being recommended tonight for the APFO.

Mr. White explained that his recommendation was different for several reasons. He stated that first of all, when there was an opportunity to take the Planning Board's recommendations and apply some real world numbers to them, it was discovered that if adjacency was limited to the high school attendance zone, then the end result was some very severe out of capacity situations. Further, he said that in some areas of the County, there was a much sharper impact on the amount of development that could be approved under the APFO and allowing adjacent elementary clusters to be counted whether or not they are in the same attendance zone provided a lot more flexibility. Secondly, he stated and of equal importance, it is much easier to administer behind the counter only counting adjacent districts. He said that he did not believe that the Board could lose sight of the

fact that for the amount of permitting activity in Union County, there are few people on the Planning staff. Therefore, he stated that making it easier to arrive at a decision under the APFO is certainly positive.

Chairman Lane stated that all the Board members had been allowed tonight to have their comments and questions. He then called for a vote on the motion to adopt the Adequate Public Facilities Order and the Compliance Statement.

The motion was passed by a vote of three to two. Chairman Lane, Vice Chairman Sexton, and Commissioner Stone voted in favor of the motion. Commissioner Pressley and Commissioner Rushing voted against the motion.

Contents

<u>Section 360</u>	<u>Introduction</u>	42
<u>Section 361</u>	<u>How to Use this Article</u>	43
<u>Section 362</u>	<u>Definitions</u>	43
<u>Section 363</u>	<u>Applicability</u>	48
<u>Section 364</u>	<u>Submittal Requirements</u>	48
<u>Section 365</u>	<u>Processing</u>	49
<u>Section 366</u>	<u>Procedures for Determining Compliance with this Article</u>	50
<u>Section 367</u>	<u>Mitigation</u>	51
<u>Section 368</u>	<u>Impact Areas</u>	53
<u>Section 369</u>	<u>Scope of Determination; Reservation of Capacity</u>	54
<u>Section 370</u>	<u>How to Determine the Impacts of Development</u>	54
<u>Section 371</u>	<u>How to Measure Available Capacity</u>	55
<u>Section 372</u>	<u>Vested Waiting Period Alternative</u>	59
<u>Section 373</u>	<u>Appeals</u>	60

AN ORDINANCE AMENDING THE UNION COUNTY LAND USE ORDINANCE

BE IT ORDAINED by the Board of Commissioners of Union County, North Carolina, that the Union County Land Use Ordinance is amended as follows:

1. A new Article XXIII is hereby added to the Union County Land Use Ordinance, which Article shall read as follows:
Article XXIII. Adequate Public Facilities Standards.

Section 360 Introduction.

This Article:

- Establishes standards for the timing and Phasing of new development based on the carrying Capacity of Public Facilities; and
- Ensures that Public Facilities needed to support new development meet or exceed the Level of Service standards established in this section; and
- Ensures that no Applications for development approval are approved that would cause a reduction in the levels of service for any Public Facilities below the Adopted Level of Service established in this Section; and
- Ensures that Adequate Public Facilities needed to support new development are available concurrent with the impacts of such development, or within a reasonable period of time;
- Encourages development in areas where public services are available and underutilized; and
- Establishes uniform procedures for the review of development Applications subject to the standards and requirements of this Section; and
- Establishes standards for the timing and phasing of development, changes in site and development design, or proffering of public facilities in order to establish flexibility, avoid the unreasonable delay of development approval, and to promote the County's planning policies.

Section 361 How to Use this Article.

Information in this Article is organized as follows:

What do the words and phrases used in this Article mean?	Section 362
What types of uses and Permits does this Article apply to?	Section 363
What do I submit with my Application?	Section 364
How is my Application processed? Who determines whether facilities are Adequate?	Section 365
What happens if facilities are adequate? What if facilities are presently inadequate? What conditions will apply to my Application if facilities are inadequate?	Section 366
If facilities are not Adequate, do I always have to phase my development or wait until they are Adequate? Or, do I have the option to provide the facilities so that I can move my plans forward?	Section 367
Where (over what area) are facilities required to be Adequate? What if my project is located in a municipality in the County?	Section 368
If facilities are determined to be Adequate or conditions are imposed, how long does this determination last? What effect does it have on other Permits that I need? If my project does not build out for awhile, will I have to go through the determination again?	Section 369
How are the impacts of a development measured?	Section 370
What are the standards for assessing whether or not facilities are "Adequate"?	Section 371
What if I am willing to delay my construction in lieu of trying to meet the adequacy standards?	Section 372
What if I disagree with the determination about whether I comply with this Article?	Section 373

Section 362 Definitions.

For purposes of this Article certain terms and words are defined as follows:

Adequate or Adequacy: A determination that facilities that are considered Available comply with the Adopted Level of Service standard.

Adjoining Property: see Article II, Section 15 of the Union County Land Use Ordinance.

Adjoining School Clusters: School clusters that share a common geographic boundary. The geographic boundaries are designated on the "attendance district maps" that are published by the Union County Public Schools, which maps are hereby incorporated by this reference. The Planning Director or his designee shall maintain the most recent version of the attendance district maps for purposes of administering this Article.

Adopted Level of Service: A measurement that quantifies a specific amount, frequency, Capacity, or response time of a Public Facility. The Adopted Level of Service is established in Section 371(b).

Anticipated Demand: The Anticipated Demand created by permitted, but unbuilt development in the Applicable Attendance Areas.

Applicable Attendance Areas: The Attendance Area that includes the Proposed Development.

Applicant: Any person, corporation, or entity who submits an Application that is subject to this Article (refer to Section 363).

Application: see Application for Development Approval.

Application for Development Approval: Any Application that would allow the development or establishment of a use that is subject to this Article (refer to Section 363).

Attendance Area: The geographic attendance area that is designated by the Union County Public Schools board of education. This is the area where the student population is served by a specific high school, middle schools and elementary schools (refer to G.S. Section 115C-47). An Attendance Area typically includes at least one (1) high school, at least one middle school, and a group of elementary schools.

Available: "Available" means that a Public Facility either: (1) exists and is operational, or (2) the Public Facility is Planned Capacity that is included in the methodology for determining compliance with this Article for a specific facility (refer to Section 371).

Available Capacity: Existing Capacity or Planned Capacity of Public Facilities that is not already committed to existing or planned development, as provided in Section 371.

Capacity: The maximum demand that can be accommodated by a Public Facility without exceeding the Adopted Level of Service.

Capacity, Core: The capacity of a school facility, as determined by the Union County Public Schools, that is determined by:

- (1) dividing the net square footage of the dining area by four, and
- (2) dividing the net square footage of the media center and main reading room by four.

The smaller of those two capacities is the "core capacity."

Capacity, Existing: Refer to the definition in the formula for determining available capacity (Section 371(c)).

Capacity, Planned: Refer to the definition in the formula for determining available capacity (Section 371(c)).

Capacity, Rated: Capacity that is determined by multiplying the number of permanent classrooms by the Class size LEA Average Ratio per classroom or space, with adjustments based upon the programmed used of the space. If the programmed use has not been determined for a Planned Capital Improvement, then Core Capacity is the Rated Capacity. The Rated Capacity is determined by the Union County Public Schools.

Capital Improvement: A Public Facility with a life expectancy of three or more years, to be owned and operated by or on behalf of the County, or the Union County Public Schools.

Capital Improvement, Planned: See "Planned Capital Improvement."

Capital Improvements Program: A plan that describes the Capital Improvements that will be provided over a given time period. A "Capital Improvements Program" may refer either to the plan for a particular service area or to the aggregation of Capital Improvements and the associated costs programmed for all service areas for a particular category of public facilities. The Capital Improvements Program includes the most recent long-range plan submitted by the Union County Public Schools to Union County pursuant to G.S. Section 115C-521.

Class size LEA Average Ratio: The maximum legal class size described as the "Class size LEA Average Ratio" in the School Facilities Guidelines, "Teacher Allotment Ratios."

Committed Development: Approved but unbuilt development. The amount of Committed Development is determined in accordance with Section 371(c) of this Article, factor "CD" in the equation.

Common Ownership: ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated associations, in which a stockbroker, partner, or associate, or a member of his family owns an interest in each corporation, firm, partnership, entity, or unincorporated association.

Consent Agreement: An executed contract between the County and an Applicant that formally sets forth development approval and requirements to achieve Adequacy. A Consent Agreement is a regulatory document containing specific conditions of development approval designed to implement the policies and criteria contained in this Article and, where the denial or deferral of development approval is disputed by the Applicant, to effectuate the public policy favoring the settlement of disputes. A Consent Agreement includes any Reimbursement Agreement (G.S. Section 153A-451, 160A-499), Public Enterprise Improvement Agreements (G.S. Section 153A-280 or 160A-320), Development Agreement (G.S. Sections 153A-379.1 et. seq. or 160A-400.20 et seq), or Site Specific Development Plan or Phased Development Plan (G.S. Section 153A-344.1, 160A 385.1), in which the Applicant lawfully agrees to provide improvements that mitigate the impacts of the Proposed Development.

Development Order: An official decision to approve any Application that is subject to this Article. This includes any decision to approve a rezoning, Subdivision plat, site plan, or development plan.

Dwelling Unit: Any "Dwelling Unit" as defined in Article II, Section 15 of the Union County Land Use Ordinance. A "Dwelling Unit" includes any Residential Development, or any development that would result in the construction of any of the following:

- Dwelling, Attached
- Dwelling, Detached
- Dwelling, Duplex
- Dwelling, Multi-Family
- Dwelling, Multi-Family Apartments
- Dwelling, Multi-Family Conversion
- Dwelling, Multi-Family Townhomes
- Dwelling, Patio Home
- Dwelling, Primary with Accessory Apartment
- Dwelling, Single-Family Detached, More Than One Dwelling Per Lot
- Dwelling, Single-Family Detached, One Dwelling Unit Per Lot
- Dwelling, Two Family
- Dwelling, Two-Family Apartment
- Dwelling, Two-Family Conversion
- Family Care Home/Handicapped, Aged, Infirm Home
- Group Development that involves the construction of a Dwelling Unit as defined above
- Halfway House
- Handicapped, Aged or Infirm Institution/Independent Living Center/Group Care Facility/Group Home
- Manufactured Home (including any Manufactured Home, Class A; Manufactured Home, Class B; Manufactured Home, Class C; Manufactured Home, Class D; Manufactured Home Park; Manufactured Home Park or Subdivision, Existing; Manufactured Home Park or Subdivision, Expansion To; Manufactured Home Park or Subdivision, New; Manufactured Home Space; or Manufactured Home Subdivision)
- Multi-Family Dwelling

Planned Residential Development or Planned Unit Development that involves the construction of a Dwelling Unit as defined above
Residency Hotel/Motel
Zero Lot Line

Elementary School Cluster: The geographic area that is designated by the Union County Public Schools where the student population is served by a group of elementary schools. Elementary schools are roughly grouped into clusters that feed into secondary schools. Some elementary schools are assigned to more than one cluster or to a secondary school Attendance Area, but the geographic area of the cluster is established by the Union County Public Schools.

Existing Demand: The present, actual utilization of Public Facilities Capacity from existing (built) development. Examples include existing school enrollment, trip counts, or calls for service.

Impact Area: The area in which a proposed residential development is presumed to create a demand for Public Facilities. This area is evaluated to determine Adequacy. (Refer to Section 369 of this Section.)

Level of Service: Level of Service indicates the Capacity per unit of demand for each Public Facility. It is an indicator of the extent or degree of service provided by a facility. This indicator is based upon and related to the operational characteristics of the facility.

Manufactured Home: A "Manufactured Home" as defined in Article II, Section 15 of the Union County Land Use Ordinance.

Manufactured Home Park: A "Manufactured Home Park" as defined in Article II, Section 15 of the Union County Land Use Ordinance.

Mitigation: An agreement by the Applicant, either as a condition of approval or as part of a Consent Agreement, to advance Public Facilities by mitigating its impacts. (Refer to Section 367 for Mitigation conditions). Mitigation may involve a monetary payment to the County, the actual construction or provision of needed facilities for the Union County Public Schools, or any other mechanism that adds student Capacity to the Union County Public Schools.

Permit: For purposes of this Article, a "Permit" means any:

- Subdivision plat
- Conditional use permit
- Special use permit
- Major development permit
- Rezoning
- Parallel Conditional Use Zoning District

Phasing: A condition of approval that imposes a buildout schedule that is tied to future increments of Planned Capacity.

Planned Capacity: Unbuilt Capacity that is included in the Capital Improvements Program, consistent with the standards provided in [Section 371\(c\)](#).

Planned Capital Improvement: A Capital Improvement that is scheduled for completion of construction within a period not to exceed six (6) years in a Capital Improvements Program.

Proposed Development: The development that is proposed in an Application for Development Approval, including all Dwelling Units, non-residential floor area, or other increments of demand on Public Facilities that would be created if the Application were approved.

Public Facility: A Capital Improvement for a public school that enables the school to serve additional students.

Rated Capacity: see Capacity, Rated.

Reviewing Agency: The agency that reviews and that has jurisdiction to approve, approve with conditions, or deny an Application for a Permit. (Refer to Section 365 for a summary of the Reviewing Agencies).

School Facilities Guidelines: the document published by the North Carolina Public Schools and entitled "Facilities Guidelines," and dated September 2003 or the most current version, which document is hereby incorporated by this reference.

School Facility: see "Public Facility."

Student Generation Rate: The figure (stated as the number of students per Dwelling Unit) to be multiplied by a given number of Dwelling Units, by type, in order to determine the projected enrollment that results from those Dwelling Units. This may be computed using the Union County Public Schools or North Carolina Student Information Management System data, Census data, or similar data, and actual numbers of dwellings to determine expected students/dwelling. For purposes of this Article, the Student Generation Rate is established in Section 370.

Subdivision: A "subdivision," as defined in Article II, Section 15 of the Union County Land Use Ordinance. Subdivision includes any Proposed Development that would result in the creation of more than five residential lots or more than five Dwelling Units if the Proposed Development project were combined with any adjacent property and sharing a common owner or developer.

Voluntary Mitigation Payment: A Mitigation measure in which the Applicant agrees to contribute money to the County to defray the per-unit impacts of school facilities.

Section 363 *Applicability.*

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| <p>(a) This Article applies to any Application for a Permit that would authorize the construction of a Dwelling Unit, unless otherwise provided below.</p> <p>(b) This Article does not apply to any use, development, project, structure, fence, sign or activity that does not create an impact on public schools. In order to demonstrate that there is no impact on public schools, the Applicant must include a legally binding restriction on occupancy by school-age children as part of the Application.</p> <p>(c) This Article does not apply to any Application for a Subdivision that involves five (5) or fewer lots for any parcels or tracts that are not under Common Ownership with Adjoining Property.</p> | <p><i>Commentary:</i></p> <p><i>This Article applies to every form of residential development, unless otherwise exempted. Residential development that is exempt will be tracked for its impact on public schools.</i></p> <p><i>This Article applies to any type of Permit that authorizes residential development. Most residential development requires Subdivision plat approval. For multi-family buildings or Manufactured Home Parks that do not require Subdivision plat approval, this Article applies to any "CUD" district rezoning, site plan or site development plan that is required for approval of the Proposed Development.</i></p> |
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Section 364 *Submittal Requirements.*

- (a) An Application for Development Approval must include all information required by this Article and all required processing fees. No Application for Development Approval subject to this Article will be accepted, approved, granted or issued unless it provides sufficient information to determine whether the Capacity of Public Facilities is Adequate to support the Proposed Development.
- (b) For purposes of this Article, the following information must be submitted with the Application for Development Approval:
- (1) the number of proposed Dwelling Units; and
 - (2) the Applicable Attendance Area and Adjoining School Clusters; and
 - (3) a Phasing schedule for the Proposed Development; and
 - (4) if the Applicant has determined that public facilities are not presently Available after initial consultation with the Planning Director or his designee, any proposed Mitigation requirements such as advancement of Capacity.
- (c) The Planning Director or his designee will determine whether the Application is complete and whether it complies with the applicable submission requirements. If the Application is incomplete or the submission requirements have not been complied with, the Planning Director or his designee will notify the Applicant and specify the deficiencies.
- (d) If the Application is complete and the submission requirements have been complied with, the Planning Director or his designee will evaluate the Application for compliance with the Adopted Level of Service and submit a recommendation in the staff report. If the Application is incomplete, the Planning Director or his designee will return it to the Applicant with an explanation of the deficiencies, and no further processing will occur until the deficiencies are corrected.

Section 365 Processing.

(a) Staff Review

If the Application is complete and the submission requirements have been complied with, the Planning Director or his designee will evaluate the Application for compliance with the Adopted Level of Service and submit a recommendation in the staff report.

(b) Determination

The determination of whether facilities are Adequate must be made at the time of major development permit or, if no subdivision review is required, at the time of site plan review. The determination of whether public facilities are Adequate is made as part of the procedure for approving the Application. No separate procedure is required, except for Consent Agreements.

(c) Decision

The Reviewing Agency's decision must include the following, based upon the evidence in the record:

- the number of Dwelling Units proposed by the Applicant, by type, for each Public Facility;
- the Phasing of the Proposed Development, if applicable;
- the specific Public Facilities impacted by the Proposed Development;
- the extent of the impact of the Proposed Development in the applicable Impact Areas;
- the Capacity of existing Public Facilities in the Impact Areas that will be impacted by the Proposed Development;
- the demand on existing Public Facilities in the Impact Areas from existing and approved development;
- the availability of Existing Capacity to accommodate the Proposed Development; and
- if Existing Capacity is not Available, Planned Capacity and the year in which such Planned Capacity is projected to be Available.

(d) Consent Agreements.

- (1) A Consent Agreement must contain an integrated development scheme for a particular phase or phases of development approval, along with maps, diagrams and other appropriate materials showing future conditions consistent with the provisions of this Article.

Note: the Reviewing Agencies are as follows:

Major development permit - Planning staff, and Planning Director review the plat and refer any recommendations to the Planning Board. The Planning Board is the Reviewing Agency.

Site Plan - The Reviewing Agency is the Planning Director or his designee. The site plan must be approved prior to the issuance of a Zoning Compliance Permit.

"CUD" District rezoning - The Board of Commissioners must approve rezoning required for CUD districts and the issuance of required conditional use permits in CUD districts. (see Article IV of the Land Use Ordinance).

Consent Agreement - the Reviewing Agency is the Union County Board of Commissioners.

- (2) A Consent Agreement may be submitted along with the Application, or provided at a later stage in the approval process if the staff recommends, or the Reviewing Agency determines, that Public Facilities are not Adequate.
- (3) If the Applicant requests a Consent Agreement, it must be approved by the Union County Board of Commissioners. The Consent Agreement will be reviewed at a normal meeting of the Board of Commissioners, unless a special meeting is convened for this purpose. The meeting may be continued from time to time as needed to resolve issues raised by the Applicant or Commissioners.
- (e) Development Orders in Incorporated Areas

For any Development Order that is filed in an incorporated area of Union County and that is submitted to the County for a determination of compliance with this Article:

- (1) the Applicant must file an Application that includes the information required by Section 364 for the applicable Public Facilities; and
- (2) the Applicant must obtain approval of a Consent Agreement pursuant to subsection (d), above.

Section 366 *Procedures for Determining Compliance with this Article.*

When the Application is reviewed, the Reviewing Agency will take one of the following actions:

(a) Approval

If the Reviewing Agency concludes that public facilities are presently Available at the Adopted Level of Service, it must approve the Application without any conditions required by this Article.

(b) Denial

If the Reviewing Agency determines that any Public Facility will not be Available at the Adopted Level of Service based upon Available Capacity, the Reviewing Agency must deny the Application, or as an alternative, the Reviewing Agency may approve the Application with conditions as provided in subsection (c), below.

(c) Conditions

The Reviewing Agency may require, or the Applicant may consent to, conditions that reduce or mitigate the impacts of the Proposed Development. Conditions may include any or a combination of the following:

- (1) deferral of final plats, building permits or certificates of occupancy until all Public Facilities are Available and Adequate if Public Facilities in the Impact Area are not Adequate to meet the Adopted Level of Service for the entire development proposal, consistent with the requirements of this Article;
- (2) phasing of final plats, building Permits, or certificates of occupancy so that future increments of development are not constructed until future Capacity becomes Available;
- (3) reduction of the density or intensity of the Proposed Development to a level consistent with the Available Capacity of Public Facilities;

- (4) provision by the Applicant of the Public Facilities necessary to provide Capacity to accommodate the Proposed Development at the Adopted Level of Service and at the time that the impact of the development will occur;
- (5) conditions agreed upon by the Applicant to advance, or partially advance the Public Facilities necessary to provide Capacity to accommodate the Proposed Development at the Adopted Level of Service and at the time that the impact of the development will occur. Provisions for advancement of Capacity are included in Section 367; or
- (6) any other reasonable conditions to ensure that all Public Facilities will be Adequate and Available concurrent with the impacts of the Proposed Development.

Section 367 Mitigation.

- (a) Applicants may propose Mitigation measures to overcome a failure to meet one or more Level of Service standards including, but not limited to, payment of a pro rata share of facility Capacity costs necessary to accommodate the demand generated by the Proposed Development. Mitigation shall include only Capital Improvements that are used in computing Rated Capacity, or Voluntary Mitigation Payments. Mitigation may not include relocatable or mobile classroom units, split sessions, multi-tracking, or year-round education.
- (b) Any Mitigation, including any monetary contribution, land donation or construction of Public Facilities, shall be paid or completed prior to the issuance of any affected final plat or major site plan approval within the subject development.
- (c) The Applicant must provide the Mitigation:
 - (1) at the time that the Permit is found to comply with this Article, or
 - (2) subject to security as provided in subsection (d). The Planning Director may accept installments of at least fifty percent (50%) of the security established for Mitigation that relates to a phased major development permit or zoning action. For purposes of this subsection, a "phased major development permit or zoning action" means:
 - (a) A major development permit in which a final plat for a portion of the residential lots will not be submitted during the two (2) fiscal years after approval of the major development permit; and
 - (b) A site plan, conditional use permit, special use permit, major development permit, rezoning, or Parallel Conditional Use Zoning District in which building permits for a portion of the dwelling units will not be submitted during the two (2) fiscal years after approval of the site plan.

Commentary: this section gives the applicant the flexibility to move the permitting process forward if facilities are not presently adequate, while ensuring that the facilities that are needed to accommodate project demands are programmed or will otherwise become available. The two-year period is used because the first 2 years of Planned Capacity is already considered in the impact analysis (see Section 371(c)).
- (d) If Mitigation involves the construction of Public Facilities and the Applicant does not construct the facilities before the Permit is issued, the Applicant shall commit to construct the Public Facilities prior to the issuance of a building Permit as a condition of the Permit. The determination must include the following, at a minimum:

- (1) a binding Consent Agreement; and
 - (2) an escrow or other security established by the Planning Director or his designee. The amount of such security shall be equal to 1.25 times the cost of constructing all required improvements, including all land acquisition, construction and improvement costs; and
 - (3) a method to address Adequacy and a requirement that it shall be completed prior to building Permits being issued; and
 - (4) for Planned Capital Improvements, a finding that the Planned Capital Improvement is included within the Capital Improvements Program of the school district or applicable service provider; and
 - (5) an estimate of the total financial resources needed to construct the Planned Capital Improvement and a description of the cost participation associated with the improvement; and
 - (6) a schedule for commencement and completion of construction of the Planned Capital Improvement with specific target dates for multi-phase or large-scale Capital Improvement projects; and
 - (7) at the option of the County Board of Commissioners and only if the Planned Capital Improvement will provide Capacity exceeding the demand generated by the Proposed Development, reimbursement, or a method to affect reimbursement, to the Applicant for the pro rata cost of the excess Capacity.
- (e) Voluntary Mitigation Payments shall be determined as follows:
- (1) The payment shall be based on the following formula:

Formula for Computing Voluntary Mitigation Payment (VMP)

$$VMP = S - C, \text{ where}$$

<i>S</i> means	The capital costs per dwelling unit, based upon the Student Generation Rate for each category of school. These costs are based upon the costs identified in the Union County Public Schools Capital Improvement Plan (CIP), divided by the Rated Capacity of the school improvements, and then multiplied by the Student Generation Rate for each category of school. If the Rated Capacity has not been determined, the capacity shall be based on the Core Capacity.
<i>C</i> means	Any adjustment to the Voluntary Mitigation Payment pursuant to subsection (2), below.

- (2) The Board of Commissioners may reduce the Voluntary Mitigation Payment if the Applicant demonstrates that actual per-unit costs are less than the amount shown. This demonstration may take into consideration a reduction in the payments ("Reductions") due to other contributions of taxes, fees, or similar payments from the Proposed Development that are reserved for Capital Improvements. Reductions may include the following that are applied to School Facilities that add student capacity:
 - (a) that portion of ad valorem taxes authorized by Chapter 105 of the North Carolina General Statutes that are levied and collected by the County through the Union County Tax Administrator's Office, Collection Division, and

earmarked for the Capital Outlay Fund as defined set forth in the Uniform Chart of Accounts, North Carolina Department of Instruction, Financial and Business Services section, or for outstanding bond issues for school capital improvements; and

- (b) Federal and State revenues that are applied to school capital costs including grants, bond revenue, and monetary contributions toward capital costs received pursuant to the School Facilities Finance Act of 1987 (Public School Building Capital Fund or Critical School Facilities Needs Fund); North Carolina School Budget and Fiscal Control Act; or the Public School Building Bond Act of 1996, or other contributions for capital improvements provided by the State of North Carolina or the federal government; and
 - (c) Credit shall be given for land donation or construction of public facilities that are limited to eligible facility improvements necessitated by the new development and to like-kind facilities as authorized by the County's Land Use Ordinance and Land Development Plan.
- (3) Voluntary Mitigation Payments shall be earmarked for school facilities within the same Attendance Area as the proposed development. The Attendance Areas are those in existence at the time that the Application is approved. Voluntary Mitigation Payments shall not be applied to school facilities outside of this area, unless:
- (a) The County finds that the school facilities to which payments are applied will reasonably benefit the residents of the Proposed Development; or
 - (b) The applicant consents in writing or in a Consent Agreement to a different application of the funds or a waiver of the earmarking requirement.
- (4) The Board of County Commissioners may publish a schedule of Voluntary Mitigation Payments, consistent with this subsection, by resolution.

Section 368 *Impact Areas.*

- (a) Generally.

Availability and Adequacy of Public Facilities are determined with respect to school facilities within the geographic area served by the Union County Public Schools, including municipalities located within Union County. For purposes of measuring Capacity (see Section 371, below), the "Impact Area" includes all school facilities within the Applicable Attendance Area for middle schools and high schools and, for elementary schools, elementary school clusters.

- (b) Incorporated Areas.

The Planning Director or his designee may determine whether school facilities are Adequate for Proposed Development within any incorporated area of the County pursuant to an intergovernmental agreement or memorandum of understanding with the municipality that has zoning or Subdivision jurisdiction over that territory.

Section 369 *Scope of Determination; Reservation of Capacity.*

- (a) A determination of Adequacy of public facilities for a Development Order indicates that:
 - (1) Public Facilities are Available at the time of issuance of the determination; and
 - (2) Public Facilities are considered Available and Adequate at all subsequent stages of the development approval process.
- (b) The determination of Adequacy expires when:
 - (1) the Development Order to which it is attached expires, lapses or is waived or revoked, or if the Applicant has not complied with conditions attached to its issuance, or
 - (2) the time frame for submitting a subsequent Application for approval, recordation of a Subdivision plat, or issuance of a certificate of occupancy expires, unless an Application for a subsequent Development Order is submitted within the time frames set forth in this ordinance.
- (c) If no expiration date is provided in the Land Use Ordinance, the conditions attached to the determination of Adequacy of public facilities, or in the conditions of Permit approval, the determination expires within one (1) year after approval of the Development Order.
- (d) A determination of Adequacy of public facilities does not affect the need for the Applicant to meet all other requirements as set forth in this Ordinance.
- (e) If a determination of Adequacy of public facilities attached to a rezoning expires, the Planning Board or Board of Commissioners may initiate proceedings to rezone the property to its original zoning classification.
- (f) If a determination of Adequacy of public facilities attached to a zoning, special use or conditional use Permit expires, the zoning, special use or conditional use Permit shall expire and the use shall be discontinued unless and until a new determination of Adequacy is obtained. A determination of adequacy may be extended if the attached Permit has been extended pursuant to Section 62 of the Land Use Ordinance and the extension complies with the requirements of this Article.
- (g) If an Applicant requests an extension of the effective period of a Development Order that is subject to this Article, the extension must comply with the requirements of this Article that are in effect at the time the request for extension is filed and approved.
- (h) If Planned Capacity is added to the Capital Improvements Program after a major development permit is approved, the applicant may request a new determination of Available Capacity under Section 371 as an amendment to the final plat. The determination shall be made by the Planning Department. If the new determination concludes that capacity is available, the conditions of the major development permit may be revised in accordance with Section 371 and shall become binding on the application. If the new conditions are applied, no resubmittal or reapproval of a major development permit or a final plat is required.

Section 370 *How to Determine the Impacts of Development.*

- (a) For purposes of this Article, the impacts of development are based upon the additional student enrollment that results from the Proposed Development. This is measured by the *Student Generation Rate*.
- (b) For purposes of this Ordinance, the Student Generation Rate for each category of schools is:

Type of Dwelling Unit	Elementary	Middle	High
Residence, single-family detached	0.527	0.196	0.227
Apartment	0.296	0.081	0.071
Townhouse	0.419	0.135	0.119
Manufactured Home	0.630	0.174	0.125
Multi-Family Dwelling	0.482	0.126	0.099

This subsection is included only to provide standards for calculating the impact of a proposed development. It does not permit any type of Dwelling Unit in a zoning district where it is not permitted.

The terms used above have the following meanings (see definition of "Dwelling Unit" in Section 362, above):

"Residence, single-family detached" means any Single-Family Detached Dwelling (More Than One Dwelling Per Lot or One Dwelling Unit Per Lot); Detached Dwelling; Patio Home Dwelling; or Zero Lot Line.

"Apartment" means any Multi-Family Apartments; Multi-Family Development/Multi-Family Dwellings; Multi-Family Conversion Dwelling; Family Care Home/Handicapped, Aged, Infirm Home; Group Development that involves the construction of a Dwelling Unit; Handicapped, Aged or Infirm Institution/Independent Living Center/Group Care; Facility/Group Home; or Residency Hotel/Motel.

"Townhouse" means any Dwelling, Multi-Family Townhomes.

"Manufactured Home" means any including any Manufactured Home, Class A; Manufactured Home, Class B; Manufactured Home, Class C; Manufactured Home, Class D; Manufactured Home Park; Manufactured Home Park or Subdivision, Existing; Manufactured Home Park or Subdivision, Expansion To; Manufactured Home Park or Subdivision, New; Manufactured Home Space; or Manufactured Home Subdivision.

"Multi-Family Dwelling" means any Attached Dwelling; Duplex Dwelling; Two-Family Apartment Dwelling; Two-Family Conversion Dwelling; Accessory Apartment; Two Family Dwelling; or any Multi-Family Dwelling not separately defined under "Apartment" or "Townhouse," above.

- (c) The above-referenced figures may be adjusted from time to time by the County Commission by amending this Ordinance to reflect updates to the Student Generation Rate calculated and provided by the Union County Public Schools.

Section 371 How to Measure Available Capacity.

- (a) Generally.

The Application for Development Approval complies with this Article only if Public Facilities are:

- (1) Adequate, as measured by the Adopted Level of Service ("LOS"), as set forth in this Article; and

- (2) Available, as set forth in the subsections that relate to the individual Public Facilities, below.

(b) Capacity.

The Capacity of Public Facilities is determined by the Adopted Level of Service. The Adopted Level of Service is the Capacity of school facilities that is computed in accordance with the School Facilities Guidelines compared to existing and projected enrollment as determined in accordance with subsection (c), below. This document is hereby incorporated by this reference and made a part of this Ordinance.

(c) Available Capacity.

Available Capacity is Existing Capacity and Planned Capacity less Existing Demand and demand that will be generated by Committed Development. The Reviewing Agency will determine whether public schools within the County have sufficient Available Capacity to accommodate the demand generated by the proposed residential development at the Adopted Level of Service. Capacity is expressed in terms of student enrollment. Available Capacity shall be calculated separately for each category of school (Elementary, Middle and High) with the Applicable Attendance Areas.

Available Capacity is determined in accordance with the following formula:

Formula for determining Available Capacity:

$$AC_R = (EC_R + PC_R) - (ED + CD)$$

Where:

<i>AC</i> means:	Available Capacity, or Existing plus Planned Capacity of Public Facilities that is not already committed to existing or Committed Development.
<i>AC_R</i> means:	Available Capacity based upon Rated Capacity.
<i>EC (existing capacity)</i> means:	100% of Existing Rated Capacity, in enrollment, for all school facilities within the Applicable Attendance Area, measured by the Adopted Level of Service (see subsection (b), above). This includes facilities that have been constructed and are fully functional.
<i>EC_R</i> means:	The Rated Capacity of Existing Capacity.
<i>PC (planned capacity)</i> means:	Planned Capacity, in enrollment, for funded but unbuilt elementary, middle and high schools within the Attendance Area based upon the first two (2) years of the Capital Improvements Program.
<i>PC_R</i> means:	The Rated Capacity of Planned Capacity.
<i>ED</i> means:	The present, actual utilization of public schools, based on existing school enrollment. School enrollment is determined by the 20 day enrollment data.
<i>CD</i> means:	The <i>anticipated</i> demand created by Committed Development and the proposed development. The enrollment generated by Committed Development is based upon a 3-year inventory of building permits based on a weighted average. "Anticipated" means the permitted development that is expected to proceed to construction and

occupancy over a given time period. For any year in which an Adequacy review occurs, "anticipated" development is derived as follows:

- (1) Take the immediately preceding 3-year weighted average of dwelling units approved by building permits (hereinafter "building permits") issued for each category of development (e.g., residential single-family detached Dwelling Units).

The County finds and determines that most recent building permit data reflects current conditions to a greater extent than more remote data, and provides a more realistic portrayal of expected demands from Committed Development. The weighted average therefore assigns greater weight to the more recent building permit data. A weight of "3" is assigned to the immediately preceding year, "2" to the second preceding year, and "1" to the third preceding year. To calculate the weighted average of building permits, multiply the number of permits issued in each year by the weight associated with that year, then add the total, and then divide this total by the sum of the weights.

If building permit data within an Attendance Area or School Cluster is not available for a particular 12-month period, the Planning Director may determine the total number of building permits issued within that area in order to compute the 3-year weighted average. In order to determine the number of permits for that year, the Planning Director may:

- A. annualize the data based on available monthly building permit data; or
 - B. distribute countywide building permit data for that year to the area based on historic growth trends; or
 - C. determine the number of permits based on any other generally accepted planning principle.
- (2) If total permitted development (in subdivision plats or zoning approvals) is less than the 3-year average (1), then total permitted development equals Committed Development.
 - (3) If total permitted development is greater than the 3-year average (1), then the 3-year average equals Committed Development for the current year.
 - (4) If (3) applies, the 3-year average is applied to the remaining permitted development for each ensuing year, until the supply of permitted development is exhausted.
 - (5) The impacts of the proposed development and the building permit average are computed in accordance with Section 370.

- (d) If Available Capacity under Formula 1 in subsection (c) for all school categories is ***equal to or greater than zero (0)***, the Application complies with this section.
- (e) If Available Capacity under Formula 1 in subsection (c) for any school category is a ***negative number***, Adequate Capacity does not currently exist to accommodate the enrollment projected to be generated by the Proposed Development, and the criteria in subsections (f) through (i) apply.

- (f) If subsection (e) applies for elementary schools, Available Capacity in the Adjoining School Clusters is added to Available Capacity of elementary schools in the subject Elementary School Cluster for purposes of the formula in subsection (c). If Available Capacity is equal to or greater than zero for all school types, the Application complies with this section. If the capacity of an Adjoining School Cluster is less than zero (0), the negative numbers shall be added to the positive numbers in order to determine Available Capacity under this approach.
- (g) If Available Capacity pursuant to subsection (f)(for elementary schools) or (e)(for middle or high schools) is less than zero, Planned Capacity in the remaining years (after two years) of the Capital Improvements Program for the subject and Adjoining School Clusters is added to existing Capacity (PC in the Formula 1 in subsection (c)). If Available Capacity under this formula is then greater than or equal to zero (0), the Application will only be approved with the following conditions:
- (1) the application includes phasing conditions that link the timing of new development to Planned Capacity that will be Available, as shown in the Capital Improvements Program; or
 - (2) the Applicant has agreed to Mitigation for its pro-rata share of Planned Capacity for any category of schools that are presently under capacity; or
 - (3) the Applicant has agreed to a combination of phasing conditions and mitigation, including any installments toward future phasing (see Section 367(c)(2)), as described in subsections (2) and (3) above.
- (h) If Public Facilities are not Adequate under subsection (g), above, Applicants shall provide a Consent Agreement that includes the provisions of subsections (1) and (2), below.
- (1) The Consent Agreement shall include a Phasing schedule that includes an annual rate of buildout that does not exceed ***ten (10) Dwelling Units per year***, or an alternative rate of buildout if the Board of Commissioners finds that the alternative rate is needed to preserve a reasonable economic use of the property. In order to avoid evasion of this Article through the parcelization of land, the Consent Agreement must apply to all Adjoining Property that is under Common Ownership.
 - (2) The Consent Agreement shall include Mitigation measures to overcome the failure to meet the Level of Service standards including, but not limited to, payment of a pro rata share of facility Capacity costs necessary to accommodate the demand generated by the Proposed Development.

Section 372 Vested Waiting Period Alternative

(a) Purpose and Findings.

The County hereby finds and determines that:

- (1) The purpose of this Article is to time and sequence development to coincide with the availability of school capacity; and
 - (2) It is advantageous to offer applicants an opportunity to defer development in lieu of seeking a determination of compliance with the adequacy standards established in this Article and/or mitigation; and
 - (3) The County Commission has determined that a growth rate of 4% per year, computed over a five-year period, is a reasonable rate of growth that balances the County's fiscal capacity with the provision of infrastructure needed to meet the demands of new growth; and
 - (4) This rate of growth exceeds the 1.5% annual rate of growth experienced by the State of North Carolina from 2000-2005, as reported by the State Data Center at <http://demog.state.nc.us>; and
 - (5) This rate of growth is less than the 6% annual rate of growth experienced by Union County over the same time period, as reported by the State Data Center, which rate of growth is not sustainable; and
 - (6) This section offers applicants and property owners a reasonable incentive to delay development for a 5-year period, thereby minimizing additional impacts to the Union County Public Schools from new growth; and
 - (7) The County undertakes to approve new applications for subdivision plat approval after this time period up to the rate of growth that it can accommodate, thereby balancing property rights with the need to avoid unreasonable levels of school congestion.
- (b) In lieu of compliance with the standards established in Section 371, above, an applicant for development approval may elect to defer the filing of an Application for Development Approval for a period of at least five (5) years, subject to this section. After the waiting period established in this subsection, or a longer period agreed to by the applicant and the County, the standards of this Article will not apply to the application, subject to subsection (d), below. The permitted buildout of an Application for Development Approval after the waiting period expires shall not exceed 25% of the total number of dwelling units subject to the Application or 25 dwelling units per year, whichever is less.
- (c) The Established Growth Target shall determine the number of dwelling units that may be authorized for an Application subject to subsection (b). The Established Growth Target is determined as follows:

Formula for determining Established Growth Target:

$$G = (P \times 0.04) / H$$

Where:

- G** means: Established Growth Target, in dwelling units.
- P** means: The most recent population estimate for Union County, as determined by the North Carolina State Data Center or successor agency.
- H** means: Average Household Size for Union County, as determined by the most recent decennial census.

- (d) After the waiting period established in subsection (b) of this Section expires, the County will approve new dwelling units authorized by Applications for Development Approval up to the point at which the anticipated population created by the new dwelling units is no more than the Established Growth Target established in subsection (c), above.
- (e) If the number of approved dwelling units does not cause the Established Growth Target to be exceeded, the County shall approve the dwelling units that are subject to the waiting period without regard to the restrictions established in this Article.
- (f) If the number of approved dwelling units will cause the Established Growth Target to be exceeded, the County shall approve the additional dwelling units that are subject to the waiting period only if they conform to the standards established in Section 371, above.

Section 373 Appeals.

- (a) If the Reviewing Agency is the Planning Board, any person that is aggrieved by the decision of the Planning Board as it relates to this ordinance, may within thirty (30) days of the Planning Board's decision, petition the Board of Commissioners for review of the Planning Board decision. The Board of Commissioners may affirm, reverse, remand the decision of the Planning Board for further proceedings, or enter into Consent Agreements as provided for by this ordinance. The Board of Commissioners may reverse or remand the decision of the Planning Board if it finds that the decision was based on an error of law, an incorrect interpretation of this Article, or if the Application of this Article would resolve in a deprivation of the reasonable use of the Applicant's property.
- (b) If the Reviewing Agency is the Board of Commissioners or the Board of Adjustment, their decision may be appealed by any aggrieved person to the Superior Court of Union County.
- (c) If the reviewing agency is the Planning Department, the appeal shall be taken to the Union County Board of Adjustments.

* * * *

- (a) If any portion, clause or sentence of this ordinance shall be determined to be invalid or unconstitutional, such declaration of invalidity shall not affect the remaining portions of this ordinance.

(b) This ordinance shall take effect and be in force from and after:

Adopted this the 2nd day of October, 2006.

Roger Lane, Chairman
Union County Board of
Commissioners

Attest:

Clerk

COMPLIANCE STATEMENT: Whereas, in accordance with the provisions of N.C.G.S. 153A-341, the Board of County Commissioners does hereby find and determine that adoption of the proposed text amendment to the Union County Land Use Ordinance to establish an Adequate Public Facilities Ordinance is consistent with the adopted Union County Land Use Plan, and that adoption of the proposed text amendment is reasonable and in the public interest because it provides a more effective residential growth strategy to better coordinate residential growth with the County's ability to provide adequate public school facilities, in order to protect and promote the public health, safety, and welfare, and to maintain a high quality of life for Union County residents.

b. Resolution Establishing Amount of Voluntary Mitigation Payments

Vice Chairman Sexton moved adoption of the Resolution Establishing the Amount of Voluntary Mitigation Payments with the amount of \$15,636, which was the figure suggested in the agenda package.

Mark White, Consultant, stated that he had met with Kai Nelson, the County's Finance Director, today, and Mr. Nelson had provided updated numbers for the County's capital improvements program. He explained that this was a very complicated formula that was used in order to arrive at this number. Mr. White said that he and Mr. Nelson had a lengthy discussion about the amount of time used to calculate a credit for property taxes. He stated they had used the true per unit cost to provide one additional unit of capacity for enrollment and discounted that by the future stream of property and sales tax payments that a single family dwelling unit is going to contribute toward that same capacity. He pointed out that the original formula only used the six-year CIP, but based on the discussions with Mr. Nelson, it was agreed that a 25-year period is more consistent with how the County finances facilities. Mr. White said that Mr. Nelson had also provided updated tax rate figures and so they had recalculated the numbers and arrived at a figure of \$14,953, which is approximately \$700 less, a difference of about four (4) percent than the figure that was included in the agenda materials.

Mr. White stressed that it was important that this figure also include the following subfigures because these figures add up to \$14,953: elementary schools - \$7,972; middle schools - \$3,231; and the figure for high schools - \$3,750. He again stressed these figures were important, because a developer could conceivably be in a district where

there is plenty of capacity for elementary schools and high schools, but there would not be capacity for middle schools for awhile. Mr. White explained that a developer in that particular situation would only and should only be exposed to a mitigation payment of \$3,231 per dwelling unit should it chose to mitigate instead of waiting until those facilities are available.

Commissioner Rushing asked if the \$14,953 in effect raises the values of the properties surrounding those homes by that same amount.

Mr. White said that he did not believe so.

Commissioner Rushing said that houses are appraised on the sale value of the homes surrounding it, so if the price of the neighborhood had been increased, then would it not in effect be raising the values of the homes all over the area.

Mr. White responded "no." He explained that the mitigation payment is not a requirement but is an option. He said that developers can choose to wait until the facilities are available, which is the general rule under an APFO. He stated that it is not a tax or fee system but is a voluntary payment.

Commissioner Rushing asked if this amount is set to deter building. Mr. White stated it was not. Commissioner Rushing said if it were going to encourage building, then he thought that homes in that area would increase by \$14,953.

Mr. White responded that the amount is not set in order to deter or encourage building but is designed to reflect the actual per unit cost of providing an additional unit of school capacity.

Commissioner Rushing asked that if a child moved into an existing house, would that child not also be affecting the school system, and, therefore, the mitigation amount should be paid. Mr. White stated that would never be triggered, because if there is an existing house, no subdivision plat approval or land use approval under the Land Use Ordinance are required, so that is why it would never apply. He explained that this discussion had taken place with the Task Force, and even when the mitigation payment was at the full amount, if it is assumed that every developer came in voluntarily and chose to make that payment instead of waiting until capacity was available over the next five years, that amount only computed to be approximately 21 percent of the total Capital Improvements Plan. He said that it was important to realize that the County taxpayers pick up that extra 79 percent of the total Capital Improvement Plan costs.

Mr. White said that he certainly did not blame homebuilders for being concerned when they see any new regulation. He further said that he sympathized with them working in an increasingly complex regulatory environment, but the APFO is available to provide options to developers to contribute to the facilities if they do not want to wait until the facilities are available.

Jim King, Planning Board Chairman, added that 18 to 21 percent was run based on the APFO version that was before the Board on July 10, 2006, which was a little more stringent than the one before the Board for consideration tonight. He noted that it would not apply to every house.

Commissioner Rushing suggested that there would have to be some adjustments in the value of the homes because of the increased prices paid on homes where mitigation payments have been made.

After continued discussion, the Chairman stated he believed that Commissioner Rushing's question regarding the prices on homes where a mitigation payment had been made had been answered several different times, and he believed there had been enough discussion on this point.

Commissioner Pressley questioned where discussion had originated from some time ago about the mitigation payment being \$21,000.

Mr. King stated that in defense of Mr. White, he believed that figure had been brought out in either the first or second APFO Task Force meeting, and Mr. White had used the \$21,000 as an example with no real basis.

Commissioner Pressley questioned when the \$15,635.83 had been arrived at. Mr. White said he believed that figure had been arrived at sometime this summer before the current CIP was approved. Commissioner Pressley asked why the \$15,635 figure had not been discussed with the Board before tonight. He said he had never heard the \$15,635 figure, but he had always heard \$21,000. He stated that now the figure has changed to \$14,953.

Mr. White stated that there was a very critical difference in that the payment is voluntary and not a fee.

Chairman Lane asked for clarification purposes if a developer builds a \$400,000 home and there is capacity in the elementary school but not in the middle school, then that \$400,000 home would have a mitigation payment of \$3,230 (middle school) if the developer does not want to wait for the facility. Mr. White stated that this was correct.

Vice Chairman Sexton amended his motion to adopt the resolution establishing the amount of voluntary mitigation payments to \$14,953.

Commissioner Pressley offered a subsequent amendment to the motion to include the three figures (elementary schools - \$7,972; middle schools - \$3,230; and high schools - \$3,750) that equal the \$14,953.

Vice Chairman Sexton accepted the amendment to his motion.

The motion as amended was passed by a vote of three to two. Chairman Lane, Vice Chairman Sexton, and Commissioner Stone voted in favor of the amended motion. Commissioners Pressley and Rushing voted against the motion.

RESOLUTION ESTABLISHING AMOUNT OF VOLUNTARY MITIGATION PAYMENTS

WHEREAS, the Union County Board of Commissioners has adopted an Adequate Public Facilities Ordinance (APFO), designed to coordinate the provision of adequate public school facilities with the demand for school capacity created by new residential development, so that residential growth does not outpace the County's ability to maintain adequate facilities; and

WHEREAS, if a determination is made that adequate public school facilities do not exist to support a proposed new residential development, the applicant for that development permit may elect to mitigate the impact of the development by offering Voluntary Mitigation Payments to be applied toward school capital improvements, in accordance with §367 of the APFO; and

WHEREAS, pursuant to §367(e)(4) of the APFO, the Board may publish a schedule of Voluntary Mitigation Payments by resolution; and

WHEREAS, the Union County Finance Director has determined that Voluntary Mitigation Payments may not exceed \$14,953 per "residence, single-family detached" dwelling unit (as that term is used in §370(b) of the APFO), which amount reflects reductions made in accordance with §367(e)(2)(a) for ad valorem taxes and §367(e)(2)(b) for contributions made by the State of North Carolina and the federal government.

NOW, THEREFORE BE IT RESOLVED that the Union County Board of Commissioners does hereby establish that in the event an applicant elects to make Voluntary Mitigation Payments pursuant to §367 of the APFO, payments shall be in an amount not to exceed \$14,953 per "residence, single-family detached" dwelling unit (as that term is used in §370(b) of the APFO), such amount to be paid as follows: \$7,972 for elementary schools; \$3,231 for middle schools; and \$3,750 for high schools. The amount of the Voluntary Mitigation Payment is subject to reduction by the Board of Commissioners pursuant to §367(e)(2)(c) in the event the applicant further agrees to donate land or to construct public facilities.

This resolution is adopted this the 2nd day of October, 2006.

RESOLUTION IN OPPOSITION TO A CONTROL OF ACCESS FENCE ALONG U.S. ROUTE 601 SOUTH:

Chairman Lane stated that he brought this issue up because once he found out about the fence in December, he had prepared a resolution in January and has held it until now to bring to the Board. He said that it is referring to approximately 22 miles of hog

wire fence less the driveways. He stated that it does not affect him because he has woods in front of his property except for his driveway. Chairman Lane said he had been requested by his neighbors to have the resolution put forth. However, he said that after Mr. Helms' presentation, he is not sure that he wants to go forward with the resolution.

Commissioner Pressley moved to deny the Resolution in Opposition to a Control of Access Fence Along U.S. Route 601 South in light of Mr. Helms' presentation.

Commissioner Rushing offered a substitute motion to amend the resolution before the Board for consideration by striking in its entirety the third paragraph of the resolution which reads as follows: "Whereas, the Board believes that NCDOT's erection of such a fence would constitute an expensive, unnecessary, and unwanted eyesore, and would undermine the aesthetics of this four-lane highway that the citizens of Union County have waited decades to obtain." The substitute motion further included amending the last paragraph of the resolution to read as follows: "NOW, THEREFORE, BE IT RESOLVED that the Union County Board of Commissioners requests that this issue by discussed with all parties involved to lessen the impact of such a fence on the residents affected."

Commissioner Pressley withdrew his motion in support of the substitute motion.

Vice Chairman Sexton asked Chairman Lane if the amended resolution would be acceptable since it had been the Chairman's initiative.

Chairman Lane said that it would be satisfactory as amended in light of Mr. Helms' discussion. Vice Chairman Sexton stated that he believed Mr. Helms had addressed the issue adequately tonight, and he did not want to take any authority out of Mr. Helms' hands and what initiatives he has in the works nor he did he want to undercut the Chairman's initiative.

Commissioner Stone said that he thought it was important for everyone to understand that while the Board of Commissioners is not making the decision on the fence, it is an extremely important safety curtain that exists along highways. He said that in addition to that, the fence creates a smooth place to the side of the road in most cases if a car runs off the road, it is less likely to hit a tree or some serious abutment, and, therefore, save lives. He said that he did not like the fences either, but he believed for the safety of those citizens that use that road, it is necessary.

For clarification purposes, Commissioner Rushing repeated the language to be changed in the last paragraph of the resolution to be as follows: "NOW, THEREFORE, BE IT RESOLVED, that the Union County Board of Commissioners requests continued discussions with all parties involved to lessen the impact of such a fence on the residents affected."

Following the discussion, the substitute motion was passed unanimously.

RESOLUTION IN OPPOSITION TO

A CONTROL OF ACCESS FENCE ALONG U.S. ROUTE 601 SOUTH

WHEREAS, the Union County Board of Commissioners understands that the North Carolina Department of Transportation intends to erect a tall, wire, control of access fence in connection with its upcoming project to widen U.S. Route 601 South in Union County; and

WHEREAS, the Board understands that this fence would be erected in front of several private residences, which would seriously injure the property values of affected residences.

NOW, THEREFORE, BE IT RESOLVED, that the Union County Board of Commissioners requests continued discussions with all parties involved to lessen the impact of such a fence on the residents affected.

This resolution is adopted this the 2nd day of October, 2006

PUBLIC WORKS DEPARTMENT:

a. Follow-Up Report on Grover Moore Place Request for Utilities

The County Manager stated that Ms. Putnam, the Public Works Director, is out of town for the entire week, and he was presenting the report in her absence. He said that the Board had received requests from two applicants for extension of a sewer line to the Grover Moore Place community.

Mr. Shalati said that the staff has, in accordance with the County's self-help process adopted by the Board, prepared a calculation of the costs involved to provide sewer to this community. He shared the following findings:

No. of Customers	Additional Cost	Total Project Cost	Revenue Fund Contribution	General Fund Contribution	Contribution Per Customer
2	0	\$176,650	\$ 2,820	\$ 4,000	\$ 84,915
15	\$8,970	\$185,620	\$21,150	\$ 30,000	\$ 8,965

Commissioner Rushing stated that on the map provided in the agenda package, he had counted 25 residents on both sides of the street and also counted Kennerly Street as one of the streets that could be affected possibly. He said that he thought that the discussion had been to look at the entire area that has well and septic tanks. Commissioner Rushing questioned the easement cost included on the cost estimate in the agenda package.

Mr. Shalati stated that it would be a gravity sewer line and it would be crossing other owners' properties. He referred to the statement included in agenda package that "the cost estimate includes easement cost per our current easement acquisition policy."

The Manager stated that the staff has not had an opportunity to visit with the residents of that area. He said that there are several unknowns in the estimates, and it is assuming that the entire 15 customers would be willing to sign up.

Mr. Shalati stated that unfortunately from the County's experience, there are times in working with the self-help projects, that not all the residents are willing to sign up.

Commissioner Rushing said that many times cost is a factor in the decision not to participate. He stated that he thought that the approximate \$9,000 cost in this scenario might be a little high and perhaps that amount could be adjusted to reach a positive scenario so that the residents could be encouraged to participate. He said that if the residents on Kennerly Street could be included, it could decrease the cost tremendously, because at the end of both streets, the cost of the remainder of the line could be borne by the residents of both streets.

Mr. Shalati stated that he did not disagree with Commissioner Rushing but stressed that these estimates were preliminarily. He said that in accordance with the County's policy, he suggested there could be a community meeting or a survey completed. However, he stated that this request had come to the Board at the September 18th meeting, and the Board had requested that staff bring information at this meeting. He assured that the staff would be willing to work with the residents in accordance with the policy.

Commissioner Rushing said that he has heard that the residents of that neighborhood are paying \$3,000 to \$4,000 for new septic tanks. He stated that it would be of benefit to other citizens in the County if those permits could be locked in before the capacity in the Twelve-Mile Treatment Plant is utilized up again. He suggested that plans be made toward locking in the permits, because when the sewage is running into that creek, it affects everyone downstream and affects the County working with the regulatory agencies. Commissioner Rushing suggested that perhaps the Town of Indian Trail might be willing to contribute toward the costs of providing sewer to the Grover Moore Place.

Mr. Shalati said that there are a couple of scenarios in this situation. First, he said that there is a process that needs to be followed. He stated that it would be somewhat time consuming to pursue potential funding from the state or the federal government since there is potential contamination, and it has an environmental effect. Secondly, he said that the County's policy could be followed to see what happens. He stated that the policy prescribes exactly how it is to be followed; however, in this case the information had been presented to the Board, and Commissioner Rushing had said there could be potentially more customers, and that would be explored.

Commissioner Rushing said that while this information was being presented to the Board for informational purposes only, he wanted to make a motion.

He moved to direct staff to schedule a meeting with the residents affected and to approach the state and federal agencies as well as the Congressional delegation to determine if there are any funds available to provide sewer service to the Grover Moore Place area.

Vice Chairman Sexton inquired whether this request has been followed in the same manner as the Dodge City project.

Mr. Shalati stated that this was correct and cited the Dodge City project as an example where staff began working with the residents of the Dodge City area and when the agreements were sent to the property owners, several of them elected not to participate, which made the project impractical.

Vice Chairman Sexton stated that he and Ms. Putnam had met with the residents of Dodge City on a Saturday morning. He stated that he believed getting input from the community was vital in determining the interest level and how to proceed from that point. Mr. Shalati responded that he would direct the staff to work with the community residents accordingly.

Commissioner Stone asked that the County Manager incorporate in this process the availability of sewer to make sure that the residents' needs could be taken care of properly. Mr. Shalati stated that this was a very good point and noted that there are some challenges; however, he said that if the dollars could be made to work, the staff would certainly do everything to work with the State of North Carolina regarding sewer availability.

Commissioner Pressley asked about the possibility of individual grinder pumps systems. Mr. Shalati stated that the policy does not allow that type of system, but said in light of this situation, he would certainly try to be as innovative as possible with the staff to help the community.

Mr. Shalati assured the Board that the staff would take the Board's direction and pursue it in accordance with the policy. Commissioner Rushing stated the motion included the staff contacting the legislators to determine if funds were available at the state or federal level to assist the residents.

Following the discussion, the motion was passed unanimously.

ANNOUNCEMENT OF VACANCIES ON BOARDS AND COMMITTEES:

Chairman Lane announced vacancies on the following Boards and Committees:

- a. One vacancy on the Union County Adult Care Home Community Advisory Committee
- b. Two vacancies on the Union County Nursing Home Advisory Committee

- c. One vacancy to fill an unexpired term representing the Weddington Region on the Library Board of Trustees

MANAGER'S COMMENTS:

There were no comments by the Manager.

COMMISSIONERS' COMMENTS:

Commissioner Rushing shared the success of the National Rifle Association's (NRA) Banquet held this past weekend in Union County. He said that Union County's event was the top grossing one for North Carolina this year. He stated that the proceeds raised through this event are used for educational programs such as the Eddie Eagle Program which helps teach gun safety.

Commissioner Pressley stated that Parkwood High School received a \$4,000 grant for its shooting team from the NRA.

He asked if the moratorium was lifted with the adoption of the APFO tonight.

Mr. Shalati responded that with the adoption of the APFO tonight, the moratorium was lifted automatically effective tomorrow.

Vice Chairman Sexton said that he knew that the APFO has been very time consuming, and he expressed appreciation to the stakeholders, legal staff, manager, staff, the municipalities, the Board of Education, and the Board of Commissioners for their participation and all their efforts to bring the APFO to fruition tonight.

Commissioner Stone said that there were a number of events that took place over the weekend in the County, one of which was the St. Jude's Ride. He explained that the St. Jude's Ride is a project where Debbie Campbell works with 4-Hers to raise money for St. Jude's Hospital to help children who have cancer. Commissioner Stone shared that Ms. Campbell and her 4-H group have been working with this program for approximately 14 years.

Chairman Lane read an invitation to the Board to attend a luncheon at the Charlotte City Club on October 11 at 12:00 p.m. regarding a program on Global Warming. He stated that the Board had also been invited to an appreciation barbeque sponsored by McEwen Funeral Home in Monroe to honor the EMS personnel, fire personnel, Highway Patrol, Sheriff, Monroe City Council, and the Board of Commissioners on Friday, October 13, 2006.

With there being no further comments or discussion and the time being approximately 10:10 p.m., Chairman Lane moved to adjourn the meeting. The motion passed unanimously with the Board members voting by rising from their chairs.